

**2005  
ANNUAL REPORT  
TO THE  
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE  
REGISTRY OF ELECTION FINANCE**

**MARCH 2006**

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## The Registry

The Tennessee Registry of Election Finance (Registry) was created by the General Assembly and Governor in 1989 as an independent entity of state government. The Registry is responsible for the enforcement of the following laws:

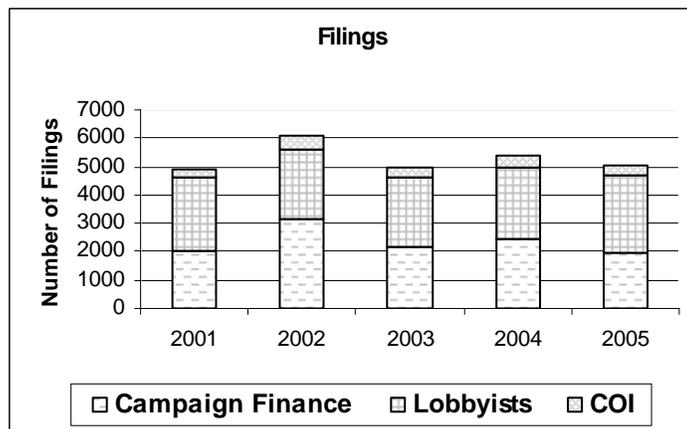
- Campaign Financial Disclosure Act (T.C.A. §2-10-101, et seq.)
- Campaign Contribution Limits Act (T.C.A. §2-10-301, et seq.)
- Gubernatorial Inauguration Finance Disclosure Act (T.C.A. §2-10-401, et seq.)
- Lobbyist Registration and Disclosure Act (T.C.A. §3-6-101, et seq.)
- Conflict of Interest Disclosure Act (T.C.A. §8-50-501, et seq.)

The Registry's board consists of a seven member board appointed to five (5) year terms. The board members are appointed by the Governor and General Assembly as follows:

- Three appointees by the Governor
  - One appointee representing the majority party
  - One appointee representing the minority party
  - One appointee that has demonstrated a nonpartisan interest in fair elections and informed voting
- One appointee by the Senate Democratic Caucus
- One appointee by the Senate Republican Caucus
- One appointee by the House Democratic Caucus
- One appointee by the House Republican Caucus

The Registry normally meets on the second Wednesday of each month. A meeting agenda is posted on the Registry's web site, [www.state.tn.us/tref](http://www.state.tn.us/tref), one week in advance of any meeting and the meetings are open to the public.

The Registry staff consists of only four employees. The staff operates the Registry office on a day to day basis. In addition to handling notification and input for over 5,000 filings a year, some of the Registry's staff responsibilities are aiding filers with questions, answering questions from the press and public looking for information, advising Administrators of Elections on local election questions and working with the General Assembly and



Governor on the statutes the Registry enforces.

The Registry has been administratively attached to the Secretary of State's office since its creation in 1989. This step was taken as a cost saving move and allows the Registry to operate without the costs of having their own administrative staff.

## **Education and Information**

Two of the main functions of the Registry are to educate and to provide information to our customer base. This includes candidates, officials, PACs, lobbyists, political parties, press and the general public. The Registry staff attempts to accomplish these functions through several methods.

The best tool the Registry has to educate and inform is our website ([www.state.tn.us/tref](http://www.state.tn.us/tref)). The Registry is continuously updating and making improvements to our website to insure that we provide the best information available to our customer base in a cost efficient method.

One of the most important additions to the Registry's website is the ability to view campaign financial disclosure statements on the Internet. Starting with the 2004 elections, the site allows you to search for complete campaign financial disclosure reports filed by candidates and PACs or to search for contributions made by a specific contributor. The campaign financial disclosure viewing site, which has only been operational since June 2004 is being used more and more. As the public becomes more aware of the information available on the campaign financial disclosure viewing site, the Registry expects the number of users to continue to increase.

The Registry also uses the website to provide our customer base with the most up to date information available. This information includes summary data on candidate's and PAC's campaign financial disclosure statements, lists of registered lobbyists by lobbyists and client and lists of qualified candidates.

The website is also used for educational purposes. The website includes frequently asked question (FAQs) sections specifically for candidates, PACs, lobbyists and public officials who file conflict of interest statements. In addition, the web site contains filing calendars, blank reporting forms and links to the Registry's laws and rules.

While the website is a good starting point for educational purposes, the Registry staff uses several more direct methods to educate its customer base. The most obvious method is making sure that a staff member is available to answer questions received by telephone and e-mail.

The Registry staff conducts seminars for candidates and committees on the campaign finance disclosure laws. These seminars are usually held throughout the state and not

only include education on the laws but a detail discussion on how to complete the campaign financial disclosure reports.

The Registry staff also regularly attends conferences and seminars put on by other groups. The staff annually attends the county Administrators of Election seminars held on a statewide and regional basis. The Registry hopes that the training received at these seminars can be passed on to both state and local candidates by the Administrators of Elections.

Another seminar attended annually by the Registry staff is the Tennessee Lobbyist Association seminar. Most of the active registered lobbyists in Tennessee are members of this organization and attend the annual seminar. The Registry uses this seminar to update lobbyists on any upcoming law changes and to reinforce the current lobbying law.

The Registry also publishes separate campaign financial disclosure guidelines for candidates and PACs. The booklets include frequently asked question sections, campaign financial disclosure laws and campaign finance rules. These booklets are made available to candidates, PACs and to the Administrators of Elections. In a cost saving attempt, the Registry has also made the guidelines available on our web site for printing by any interested party.

## **Enforcement**

The main goal of the Registry is for all disclosures to be filed in a timely and accurate manner. When reports are filed with minor errors, the Registry returns these reports for correction and allows the filer a reasonable amount of time to correct the report. When a filer does not file on time or when any other Registry statute is violated, the Registry has civil penalty authority.

The Registry goes through several steps before assessing a civil penalty against an individual or organization. For example, a two week notification is sent to any candidate, lobbyist or PAC owing a disclosure report notifying them of the report due and the due date. If the report is not filed by the due date, the Registry sends a certified notice to the individual or group notifying them that they have five (5) days to file the required report or civil penalties will begin to accrue. If the required report is filed during this five (5) day period no action will be taken.

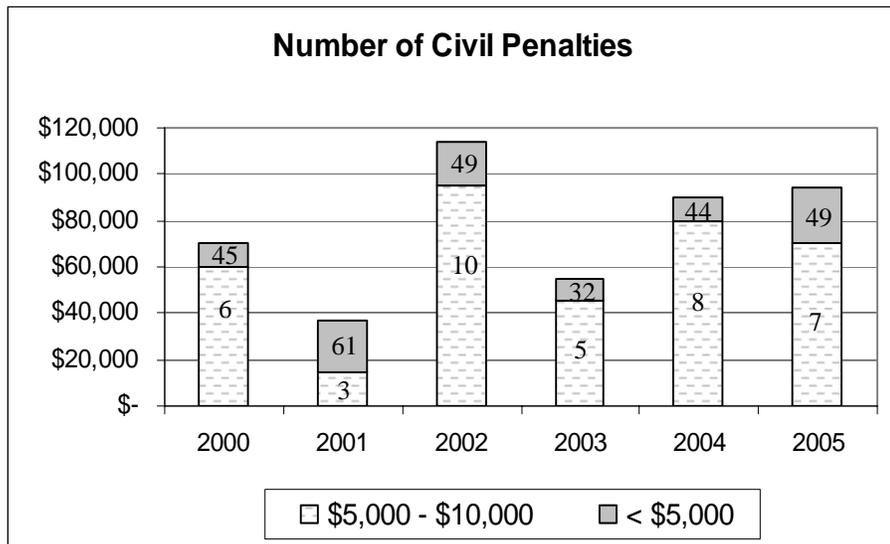
If a filing is not made during the five (5) day period, the matter will be presented by the Registry staff to the Registry for action. At this point, the Registry can vote to issue a show cause notice or to take no action. Before making this decision, the Registry will consider all the facts in the matter including how many days late the report was filed and whether the person or organization has had matters before the Registry in the past.

If the Registry votes to issue a show cause notice, a letter is sent to the individual or organization notifying them of the allegations in the matter and the maximum civil penalty that may be assessed. In addition, the individual or organization is notified that they may respond in a sworn statement or appear in person at the Registry’s next meeting to explain why civil penalties should not be assessed against them.

Before assessing a civil penalty, the Registry will consider all information provided to them in response to a show cause notice. Most of the civil penalties assessed by the Registry are small. The largest civil penalty assessments are in cases where there is no response to the show cause notice or when an individual or group have had multiple violations of the statutes enforced by the Registry.

Breaking down the Registry civil penalty assessments between large civil penalties, \$5,000 to \$10,000, and the under \$5,000 civil penalties, it is easy to see that a small number of penalties make up a large percentage of the civil penalty assessments. For example, in 2005 the chart to the right shows that the Registry assessed \$70,000 (78%) in the seven civil penalty assessments

where the civil penalty was greater than \$5,000. The remaining \$22,442 in civil penalties assessments were assessed in 49 cases with each civil penalty being less than \$5,000. The



trend is the same for the six years shown in the chart. Overall during this six year period, almost 80% of civil penalties were assessed in just over 12 % of the civil penalty cases.

After any assessment of a civil penalty, the individual or group assessed the civil penalty has the right to request a reconsideration of the civil penalty assessment against them. The individual must notify the Registry in writing of the request for reconsideration within 14 days of the issuance of the Registry's civil penalty order.

In addition to being subject to civil penalties, any candidate that is assessed a civil penalty or fails to file a campaign financial disclosure report is ineligible to qualify to run for state or local office until the penalty is paid and/or the report is filed.

In addition to being subject to civil penalties, any lobbyist that fails to file an activity report is subject to having their lobbyist registration suspended. The lobbyist shall not be reinstated or be allowed to register as a lobbyist until the activity report is filed.

The Registry also has the authority to assess civil penalties based on sworn complaints filed with our office. The Registry follows the same procedures with a sworn complaint as it does with late filing. All information available will be examined before any action is taking in a case involving a sworn complaint.

### Campaign Financial Disclosure Act

The Campaign Financial Disclosure Act requires candidates for state office, multi-candidates committees (PACs) and single-measure committees to file campaign financial disclosure reports with the Registry. The Registry continued its transition from paper to electronic filing in 2005.

The use of the Internet based electronic filing system has continued to climb. Both candidates and PACs have increased their usage of the filing system. Any candidate or PAC wanting to use the system is given an ID and password which provides access to the Internet based system. By going to [www.tennesseeanytime.org/tncamp](http://www.tennesseeanytime.org/tncamp) and typing in their ID and password, candidates and PACs have secure access to their campaign financial disclosure information. At this site, candidates could enter their campaign financial disclosure information all at once or on an ongoing basis, build reports and submit them to the Registry.

The Registry has received numerous positive feedback on the electronic filing system. Many candidates that have used the system have stated that they do not know why anyone would file on paper with the electronic filing system available.

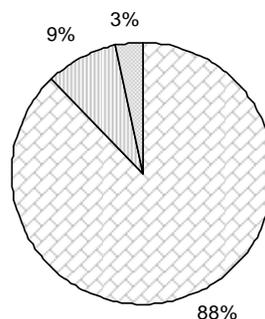
#### Candidates

Normally in odd numbered years there are no state elections, 2005 was the exception to the norm. In 2005, three (3) special elections were held to fill vacancies for four (4) general assembly seats: senate district 29; senate district 33; house district 22; and house district 87. Candidates for these four (4) offices and candidates with open campaign accounts were required to file campaign finance disclosure reports with the Registry.

Candidates in the special state elections were required to file pre-election and post-election campaign financial disclosure reports for the primary and general elections. While candidates with open campaign accounts, from 1990 to 2008 elections, were required to file supplemental campaign financial disclosure reports covering their activity for the 2005 year.

For the 2005 year, candidates from past, present and future elections were required to file 205 campaign financial disclosure reports with the Registry. Of the 205 disclosure reports required to be filed with the Registry 180 were filed timely. Certified notices were sent to the remaining 25 candidates notifying them that civil

Candidate Filings



□ Timely Filed □ Filed Late □ Not Filed

penalties could be assessed if their disclosure reports were not filed within five days of their receipt of the notice. Out of the 25 disclosure reports that were not filed timely, seven disclosure reports have still not been filed.

Multi-Candidate Committee (PACs)

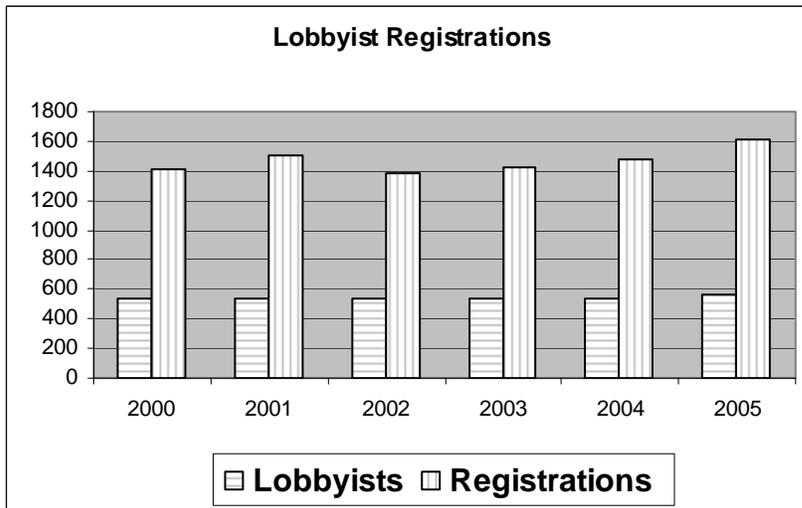
PACs are required to file quarterly campaign financial disclosure statements with the Registry. These reports disclose receipts and the contributions they made to candidates. PACs registered with the Registry made contributions totaling \$1,819,353 to state candidates in 2005 (See Appendix A for a detailed list of PAC contributions to candidates).

During 2005, PACs were required to file 1580 disclosure reports with the Registry. Of the 1580 disclosure reports required to be filed with the Registry 1487 were filed timely. Certified letters were sent to the remaining 93 PACs. Of the 93 late PAC reports for 2005, four (4) have still not been filed.

**Lobbyist Registration and Disclosure Act**

The Lobbyist Registration and Disclosure Act require lobbyists to register with the Registry in order to lobby legislative or executive branch for pay or consideration. A lobbyist must complete and file a lobbyist registration form for each client. In addition, a registered lobbyist must file a mid-year and year-end lobbyist activities report disclosing campaign contributions to state candidates of over \$100. (See Appendix B for a detailed list of lobbyist contributions to candidates.)

During 2005, lobbyists were required to file 1099 activities reports with the Registry. Of these required filing 1027 were timely filed. Civil penalty letters were sent out to the remaining 72 lobbyists. At this time, eight (8) of these activities reports have still not been filed.



In 2005, the Registry had 562 lobbyists register with our office. These 562 lobbyists filed 1617 lobbyist registrations with the Registry. As can be seen in the chart, from 2000 to 2004 the number of registered lobbyists and number of registrations remained very

consistent. In 2005, the number of lobbyist registrations jumped almost 10% from the previous year while the number of lobbyists rose just only 3%. Over the past six years, the average number of registered lobbyists has been 542, while lobbyist registrations have averaged 1466.

### **Conflict of Interest Disclosure Act**

The Conflict of Interest Disclosure Act requires state candidates and certain public office holders to file Statement of Interests with the Registry. The passage of Public Acts 102 by the 2005 general assembly requires more information to be disclosed by members of the general assembly than by other public officials required to file a Statement of Interests.

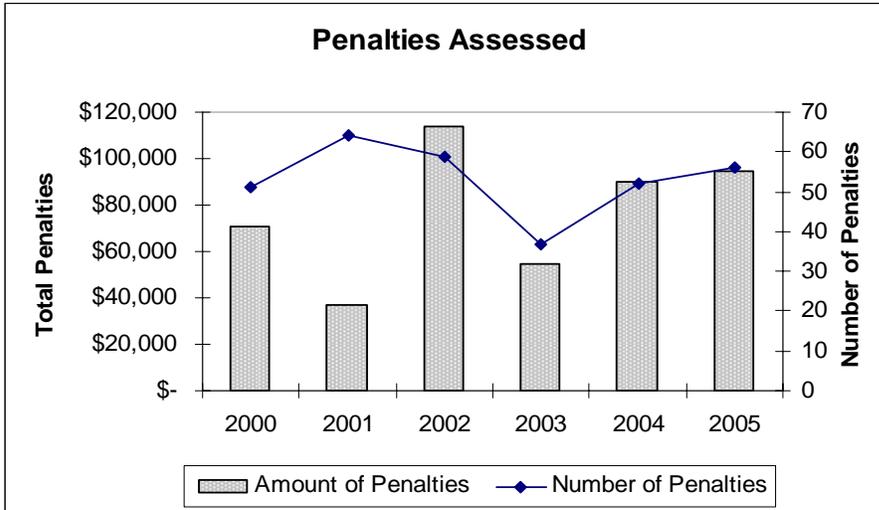
Non-general assembly member filers are required to disclose the following on their Statement of Interests:

- major sources of income of over \$1,000,
- investments of over \$10,000 or 5% of the total capital of a business or corporation,
- compensated lobbying by the official or their spouse,
- general terms by area's of interest of any professional services,
- retainer fees received from any person conducting lobbying activity,
- adjudication of any bankruptcy in the last five years and,
- certain loans received.

General assembly members must disclose sources of income over \$200, instead of \$1,000, and provide the address for the sources of income. In addition, general assembly members must list the name and address for positions held on a board of a corporation, firm, partnership, business enterprise, non-profit organization or educational institution.

In 2005, 335 public officials and state candidates were required to file Statement of Interests with the Registry of Election Finance. This number included 307 public officials and 28 candidates. Certified notices were sent to 18 officeholders in 2005. Three Statement of Interests have still not been filed.

To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 52 individuals and organizations in 2004. In 31 of the cases the violations were class 1 violations, which carry a maximum \$750 civil penalty. The other 21 cases were class 2 violations, which carry a \$10,000 or 115% of the amount in controversy maximum penalty.



In 2005, the 56 penalty assessments by the Registry totaled \$92,442. As the chart to the left shows, this compares with civil penalty assessments of \$54,510 for 2003 and \$90,075 for 2004. The number of civil penalty assessments and the total amount of civil penalties assessed stayed almost the same from 2004 to 2005.

Normally, the amount of civil penalties assessed declines in odd numbered years but as a result of the special elections held in 2005, the civil penalties rose slightly from 2004 to 2005.

Below is a breakdown by type of violation of the 56 civil penalty assessments by the Registry in 2005:

- 19 for late filing of campaign financial disclosure reports by PACs
- 17 for late filing of lobbyist activity reports
- 12 for late filing of campaign financial disclosure reports by candidates
- 4 for late filing of Statement of Interests
- 2 for violation of the lobbyist gift ban
- 1 for a legislator accepting a contribution during session
- 1 for personal use of campaign funds

## Law Changes

The 2005 General Assembly passed the following legislation affecting the statutes that the Registry of Election Finance enforces:

- Banned General Assembly members, state officials and local officials from receiving consulting fees.
- Added additional disclosure requirements on General Assembly members when filing their Statement of Interests.
- Deleted the requirement for candidates to file an allocation report (based on the recommendation of the Registry).
- Deleted the inspection notification which required the Registry and county elections commission to notify a candidate when someone viewed their report (based on recommendation of the Registry).

## New Ethics Proposals

Both the Governor and the General Assembly placed an emphasis on ethics as the 2005 year came to a close. Governor Bredesen created the Citizen Advisory Group on Ethics in Government. This group of citizens held meetings throughout the state to listen to ideas from citizens, legislators, lobbyists and the Registry. On September 29, 2005, the committee presented Governor Phil Bredesen with their final report. The final report is available on-line at [www.tnanytime.org/govfiles/final\\_report.pdf](http://www.tnanytime.org/govfiles/final_report.pdf).

The 2005 General Assembly created a committee of 24 legislators to study ethics. The Ethics Committee held committee hearings to gather information from all across the country on ethics. In November 2005, the Ethics Committee released their ethics committee report which can be viewed at [www.legislature.state.tn.us/Joint/Committees/Ethics/CCR-013294.pdf](http://www.legislature.state.tn.us/Joint/Committees/Ethics/CCR-013294.pdf).

As the 2005 year ended, Governor Bredesen called the general assembly into a special session on ethics. The legislature will assemble in January 2006 to consider ethics legislation and changes to the campaign finance statutes, lobbying statutes and conflict of interest statutes.

Both the Citizen Advisory Group on Ethics in Government report and the Ethics Committee report include suggested statute changes proposed by the Registry including:

- Lobbyists should be assessed class 2 civil penalties of up to \$10,000 for failure to file lobbyist registration and activities reports as required by the Lobbyist Registration and Disclosure Act. Currently, civil penalties are limited to \$750 for late filing of required lobbyist reports. This is contrary to the Registry's authority to assess class 2 civil penalties of up to \$10,000 against candidates and PACs for late filing of campaign financial disclosure reports.

- The Registry should be provided subpoena authority and random audit authority as part of its investigative powers, with the requirement that two-thirds of the board, as constituted on the date of any motion to utilize subpoena authority, must vote in favor of the issuance of a subpoena for such subpoena to be issued.
- Campaign financial disclosure reports should be made viewable on the Internet as soon as they are filed and reviewed by the Registry. Currently, a state candidate's campaign financial disclosure statement can not be viewed on the Internet until all candidates running for the same office have been filed.

## **Goals**

The Registry hopes to continue to improve its services to its customers in the future. The continued promotion of the Registry's electronic filing and viewing system is one of the main ways the Registry's can better serve the public. This will not only improve the timeliness and accuracy of reports filed in our office but it will aid the Registry in making the information available on a more timely basis to the public.

The Registry is already in the process of improving the electronic filing and viewing system. Currently, you can view and print an entire candidate or PAC report, only the contribution pages or only the expenditure pages. In addition, you can search for specific contributors to candidate's campaigns. The updated system will allow contributor searches by zip codes as well as names. You will also be able to search expenditure information by payee. In addition, the upgraded version will include the ability to download the information that is found in the searches.

The Registry's main goal is to have reports filed in a timely and accurate manner, while at the same time reducing the costs of the Registry. The first step in this process has been completed with the campaign finance electronic filing and viewing system. The electronic filing system should help the Registry reduce costs with more timely and accurate reports.

The most obvious cost savings of the new system will be that reports can be filed electronically and will not have to be hand entered. This is why widespread usage of the new system is so important.

Next, with more accurate reports being filed with the Registry, the Registry will not need to send as many reports back for corrections. This will reduce the Registry's postage and supply costs. The timelier filing of campaign finance reports will also help the Registry reduce costs. With less late filers the Registry can again cut postage and supply costs.

The Registry also hopes to continue the trend of making more information available to the public on the Internet. The new search features that will be available soon will only enhance the ability to search candidate and PAC records on-line.