

**2006
ANNUAL REPORT
TO THE
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE
REGISTRY OF ELECTION FINANCE**

MARCH 2007

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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. As 2006 began, the Registry was responsible for the enforcement of the following statutes:

- 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.)

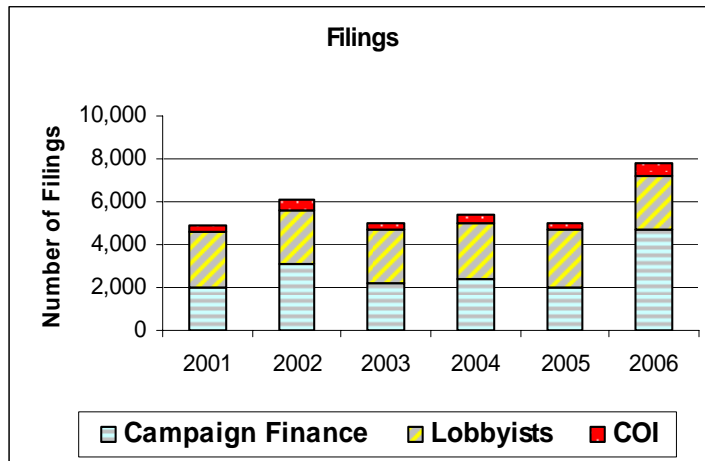
The 2006 year was a year of change for the Registry. The passage of the *Comprehensive Governmental Ethics Reform Act of 2006* resulted in many statute changes over which the Registry had authority. One major change was that on October 1, 2006, the newly formed Tennessee Ethics Commission (www.state.tn.us/sos/tec) took over enforcement of the Lobbyist Registration and Disclosure Act and Conflict of Interest Disclosure Act. This change along with all other statute changes are discussed in detail later in the **Statute Changes** section of this report.

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

- Two appointees by the Governor
 - One appointee representing the majority party
 - One appointee representing the minority party
- 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, one week in advance of any meeting. Registry meetings are held in the Registry's office and are open to the public.

The Registry staff consists of six employees. The staff operates the Registry office on a day to day basis. Due to the statute changes that required candidates and PACs to file



more campaign finance reports during an election year and the fact that there were more state candidates in 2006 than in any year since the creation of the Registry, the Registry received almost 8,000 filings in 2006. This is a 45% and 52% increase over filing from 2004 and 2005, respectively. In addition to receiving these filings, some of the Registry's staff responsibilities include

sending notifications for each filing required, reviewing all reports filed for errors, auditing candidate's campaign finance disclosure reports, 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. For the 2006 year this included 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). 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.

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 lobbyist 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, and referendum committees. These FAQs are updated frequently and are an excellent source for the latest information.

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.

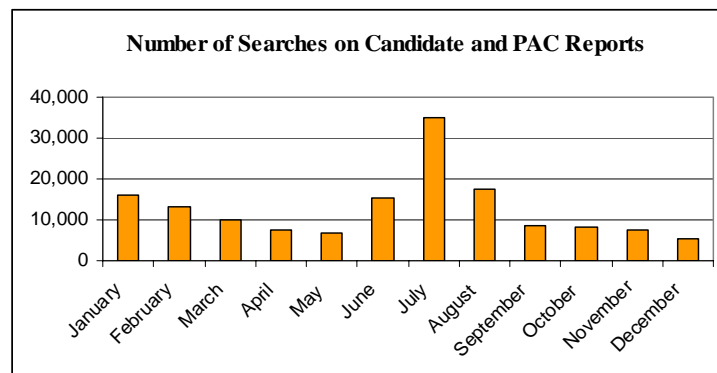
The Registry staff conducts seminars for candidates and committees on the campaign finance disclosure laws. These seminars are usually held throughout the state and not only include education on the laws but a detailed discussion on how to complete the campaign financial disclosure reports.

The Registry staff also regularly attends conferences and seminars put on by other groups. The staff annually attends the County Administrators of Elections 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, every two years, 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.

One of the most important additions the Registry has made in providing timely information to the public in the last two years is the ability to view candidate's and PAC's 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 been operational since June 2004, had 150,822 searches conducted in

2006. This number will continue to increase as the public becomes more and more aware of the information available on the campaign financial disclosure viewing site.

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 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 by the Registry.

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.

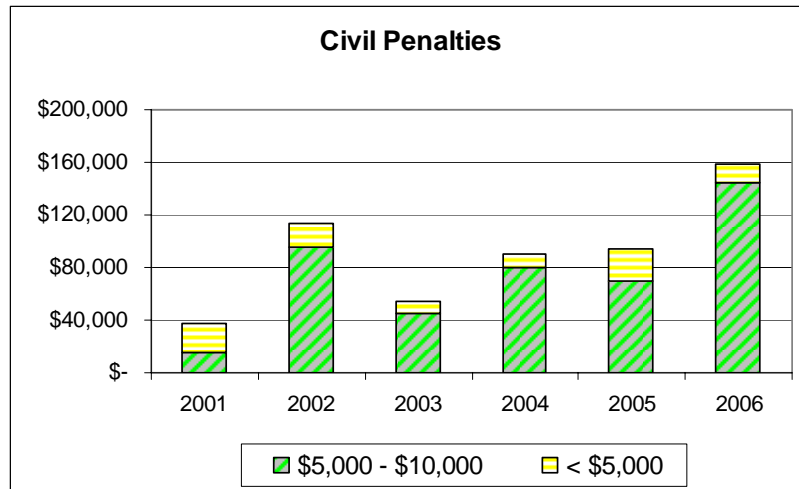
In addition to late filings, the Registry reviews all filings for violations of the statutes. These violations include violations of the contribution limits, failure to report contributions and contributions made or received during blackout periods. Starting with the 2006 elections, the Registry will perform two types of audits:

- Complete campaign finance audits on 2% of legislative candidates, any gubernatorial candidate receiving over 10% of the vote in the general election, one Supreme Court candidate, one Court of Appeals candidate and one Court of Criminal Appeals candidate.
- Unitemized contribution audits will be performed on any candidate who reports over \$5,000 in unitemized contributions on a report if the unitemized contributions make over 30% of total contributions.

Any violation of statutes found during the reviews or audits are presented by the Registry staff to the Registry for action in the same manner as a late filing.

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 2006 the chart below shows that the Registry assessed \$145,000 (91%) in the 16 civil penalty assessments where the civil penalty was \$5,000 or greater. The remaining \$13,875 in civil penalties



assessments were assessed in 48 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 shown in the chart above, almost 83% of civil penalties were assessed in under 15% 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.

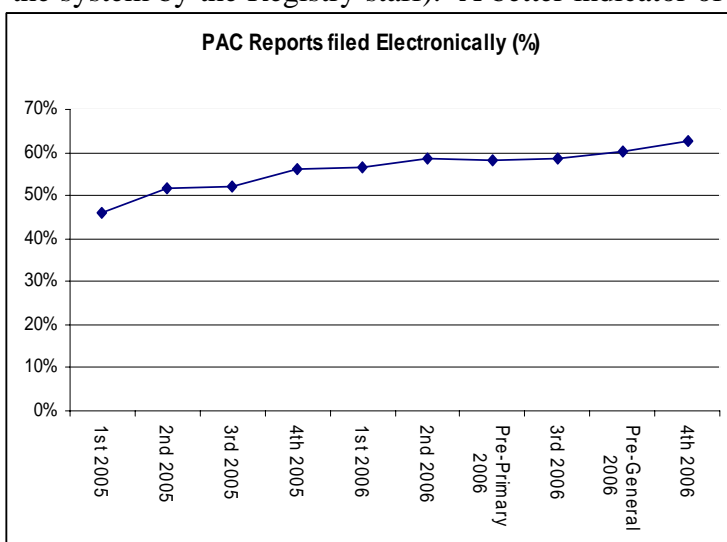
In addition to being subject to civil penalties, any candidate that is assessed a civil penalty or fails to file a campaign financial disclosure report is ineligible to qualify to run for state or local office until the penalty is paid and/or the report is filed.

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 a late filing. All information available will be examined before any action is taken 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 2006.

The use of the Internet based electronic filing system has continued to rise. While the 90% electronic filing rate for candidates is due in part to a statute change that requires candidates to use the electronic filing system if they receive or spend over \$1,000 during a reporting period, many candidates that were not required to file reports electronically still did (any candidate or Pac that files on paper will have their information entered into the system by the Registry staff). A better indicator of the increase in use of the Internet



filing system is the continued increase in usage by PACs, which use the system on a voluntary basis. The percentage usage by PACs has increased from 46% to 63% since 2005. The Registry believes this percentage will continue to rise due to two factors: almost 100% of new registered PACs choose to file by using electronic filing system and the continued acceptance by existing PACs 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 and typing in their ID and password, candidates and PACs have secure access to their campaign financial disclosure information. At this site, candidates and PACs can enter their campaign financial disclosure information all at once or on an ongoing basis, build reports and submit them to the Registry.

The Registry continues to receive positive feedback on the electronic filing system. Many candidates and PACs 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

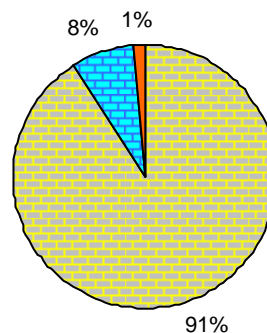
In 2006, state elections were held for governor, state senate in the odd numbered districts, state representatives for all districts, supreme court, court of appeals, court of criminal

appeals, district attorney general and public defender. The 398 candidates participating in the 2006 elections were the largest number of state candidates that the Registry has had since its creation in 1989.

The number of campaign financial disclosure reports required to be filed by candidates increased in 2006. Prior to 2006, candidates filed pre-election and post-elections reports for the elections they were involved in. Starting with the 2006 elections a candidate could be required to file up to six campaign financial disclosure reports for an election year. In addition, candidates with open campaign accounts from past or future elections are now required to file campaign financial disclosure reports on a semi-annual basis instead of an annual basis.

For the 2006 year, candidates from past, present and future elections were required to file 2100 campaign financial disclosure reports (Summary information is included in Appendix A for candidates running in the 2006 elections). Of the 2100 reports required to be filed with the Registry 1906 were filed timely. Certified letters were sent out for the remaining 167 reports that were not filed

Candidate Filings

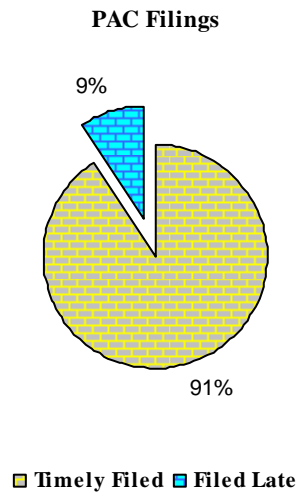


■ Timely Filed ■ Filed Late ■ Not Filed

timely notifying the candidate that civil penalties could be assessed if the required report was not filed within five days of their receipt of the notice. Out of the 167 disclosures that were not filed timely, 27 still have not filed. The majority of the reports not timely filed or which were not filed at all were reports due after the primary and general elections that were not filed by a losing candidate.

Multi-Candidate Committee (PACs)

PACs are now required to file six campaign financial disclosure reports annually during an election year and two reports during non-election years with the Registry. These reports disclose receipts and the contributions they made to candidates. PACs registered with the Registry made contributions totaling \$ 5,162,333 to state candidates during the 2006 year (Appendix B contains a detailed list of contributions made by the PAC to candidates).



During 2006, PACs were required to file 2560 campaign financial disclosure reports with the Registry. Of the 2560 disclosure reports required to be filed with the Registry 2324 were filed timely. Certified letters were sent to the remaining 234 PACs. Of the 234 late PAC reports for 2006, only two have still not been filed. The majority of the late PAC reports were for the pre-primary and pre-general reporting periods. The 2006

year was the first year that PACs were required to file pre-primary and pre-general reports and this resulted in large percentage of the late filings.

Lobbyist Registration and Disclosure Act

The Lobbyist Registration and Disclosure Act required lobbyists to register with the Registry in 2006 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.

In 2006, the Registry had 512 lobbyists register with our office. These 512 lobbyists filed 1559 lobbyist registrations with the Registry. As can be seen in the chart, from 2001 to 2006 the number of registered lobbyists and number of registrations does not vary much from year to year. Over the past six years, the average number of registered lobbyists has been 540, while lobbyist registrations have averaged 1496.

During 2006, lobbyists were required to file 1020 activities reports with the Registry. Of these required filings 967 were timely filed. Certified notices were sent out to the remaining 53 lobbyists. At this time, one (1) of these activities reports has still not been filed.

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.

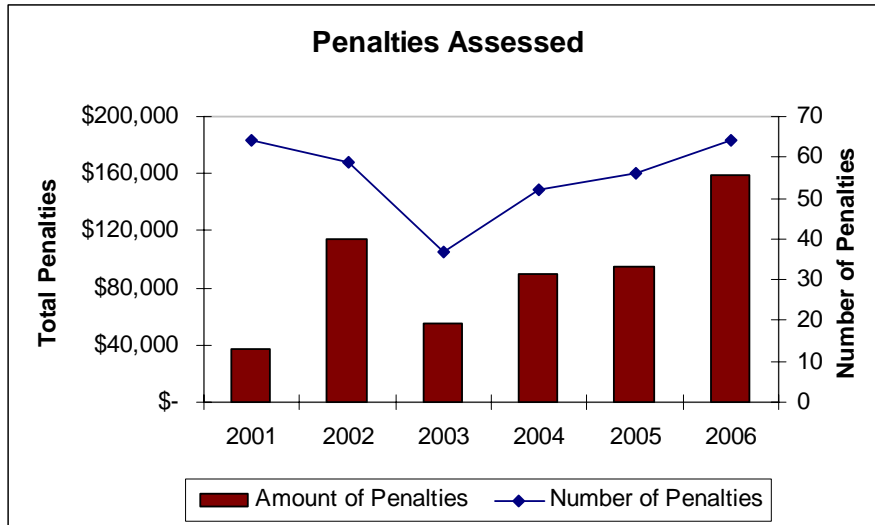
Non-general assembly member filers are required to disclose the following on their Statement of Interests:

- 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 2006, 597 public officials and state candidates were required to file Statement of Interests with the Registry of Election Finance. This number included 309 public officials and 288 candidates (Legislators file their Statement of Interests at the beginning of the year as a public official and are not required to re-file as a candidate). Certified notices were sent to 27 officeholders in 2006 and all reports have now been filed.

To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 54 individuals and organizations in 2006. In 29 of the cases the violations were class 1 violations, which carry a maximum \$750 civil penalty. The other 35 cases were class 2 violations, which carry a \$10,000 or 115% of the amount in controversy maximum penalty.



In 2006, the 64 penalty assessments by the Registry totaled \$158,875. As the chart to the left shows, this compares with civil penalty assessments of \$90,075 for 2004 and \$94,442 for 2005. The number of civil penalty

assessments and the total amount of civil penalties assessed was larger in 2006 due to the increase in the number of reports that were required to be filed by candidates and PACs and the large number of candidates in the 2006 elections.

Below is a breakdown by type of violation of the 64 civil penalty assessments by the Registry in 2006:

- 26 for late filing of campaign financial disclosure reports by candidates
- 14 for late filing of lobbyist activity reports
- 12 for late filing of campaign financial disclosure reports by PACs
- 9 for failure to report campaign contributions
- 3 for late filing of Statement of Interests

Statute Changes

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.

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.

In January 2006, Governor Bredesen called the general assembly into a special session on ethics. The legislature considered ethics legislation and changes to the campaign finance statutes, lobbying statutes and conflict of interest statutes. On February 15, 2006, Governor Bredesen signed into law the *Comprehensive Governmental Ethics Reform Act of 2006*. Below are is a list of some of these changes:

- Created Tennessee Ethics Commission to (TEC) enforce Lobbyist Registration and Disclosure Act and Conflict of Interest Disclosure Act. In addition, the TEC will enforce new ethics statutes.
- Candidates and PACs will file pre-election and quarterly reports during an election year.
- During non-election years candidates and PACs will file reports semi-annually.
- Candidates will now be required to file campaign financial disclosure reports electronically if they raise or spend over \$1,000 for an election.
- A person may only make cash contributions to a candidate or PAC of up to \$50 per election.
- PACs may not make cash contributions.
- Candidates and PACs must make a best effort to list occupation and employer for all itemized contributions (over \$100) from individuals.
- Candidates may no longer list a credit card vendor as a payee; you must list the name of the vendor for each credit card purchase.
- Candidates must list the actual vendor who supplied the goods or services and not a third party that was reimbursed for a purchase.

- Candidates may not use the words "reimbursement", "credit card purchase", "other" and "campaign expense" as purposes for expenditures.
- The requirement that legislative candidates file a copy of their disclosure with their local county election commission has been deleted.
- Candidates must maintain records, including checks, bank statements and vendor receipts, used to complete disclosure reports for a period of two (2) years following the election to which the records refer.
- Campaigns may be subject to an audit. The Registry is required to audit approximately 2% of legislative candidates. A random draw of districts will be held until 2% of candidates are selected for audit. All candidates in a district chosen will be audited.
- Any candidate that files a report with over 30% of their contributions listed as unitemized and that amount exceeds \$5,000 will have their contributions audited.
- Audits will also be conducted on gubernatorial candidates that receive over 10% of the vote in the general election. In addition, audits will be conducted on one supreme court candidate, one court of appeals candidate and one court of criminal appeals candidate.
- No individual may contribute more than \$101,400 in aggregate to all candidates, PACs and PACs controlled by a party (state or local) or by a caucus of the party established by either house of the general assembly in a two (2) year period. No more than \$40,000 of this amount may go to candidates and no more than \$61,400 may go to PACs.
- Any caucus of the general assembly (any association whose majority membership consists of members of the general assembly that seek to pursue or promote a common interest) must file quarterly reports (same information as a PAC) with the Registry.
- Lobbyists may no longer make campaign contributions to a candidate for governor or general assembly.
- County Election Commissions must notify the Registry of each election to be held in their county.
- County Election Commissions will no longer assess class one civil penalties. Information will be forwarded to the Registry for assessment of penalties.
- A candidate is now considered ineligible to qualify for office if a civil penalty is not paid within 30 days of being final or by the qualifying deadline whichever is earlier.

- A PAC that does not pay an assessed civil penalty within 30 days of it becoming final can not accept contributions or make expenditures to support or oppose candidates.
- PACs will have to list all officers to the Registry.
- Registry can release candidate reports to Internet after review (previously we had to wait until all candidates in race had filed).
- Registry must list candidates on the Internet who are delinquent filing campaign financial disclosure reports.
- Registry was given subpoena power.
- Contributions count toward current election limits even if used to pay off loan from previous election.
- Reduces the Registry to six members.
- Added specific language of unallowable expenditures from campaign funds.

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 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 revised system will allow the public to conduct searches on almost all of the information disclosed by the candidates and PACs, such as occupation, employer, zip codes and addresses. In addition, the upgraded version will include the ability to download the information that is found in the searches.

Another goal of the Registry is to reduce the number of reports filed late and the number of reports that are filed with errors. The reduction in late reports and reports with errors will not only allow the Registry to make the information available to the public sooner but it will reduce the Registry's costs. The electronic filing system will continue to help the Registry reduce costs with more timely and accurate reports.

The most obvious cost savings of the new system will be that reports filed electronically will not have to be hand entered into the system by the Registry staff. The continued increase in usage will free the Registry staff for other duties.

The error check system that is part of the electronic filing system will continue to be modified to reduce the number of reports sent back for corrections. This will reduce the Registry's postage and supply costs.

Lastly, the Registry wants to decrease the number of reports filed late. The Registry is currently working with the Administrators of Elections so that all potential candidates that pick up petitions at the County Elections Commission will be given an information sheet that will make them aware of the filing requirements for qualified state candidates. The information sheet will also make these candidates aware of the consequences for not filing a required report. The hope is that this will reduce the number of late filings and thus the number of civil penalty cases the Registry will need to process.