



VIA FACSIMILE

State of Tennessee
Department of State
Division of Elections
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February 22, 2008

Christy Kinard
Assistant County Attorney
Shelby County Attorney's Office
160 N. Main, Suite 660
Memphis, TN 38103

Re: Proposed Charter Amendment on the Regular November Ballot

Dear Christy:

On September 12, 2007, I advised Ms. Monice Hagler Tate, that a referendum regarding a proposed Shelby county charter amendment could not be placed on the Presidential Preference Primary ballot. I based this decision on language found in Attorney General Opinion No. 82-223 (AGO 82-223) where the Attorney General examined the history of the definition of "election" and concluded that its definition does not include primary elections and referenda.

In light of AGO 82-223, I stated that because Section 5.05(D) of the Shelby County Charter requires a proposed charter amendment to be submitted to the voters "at the next regular county election," the proposed charter amendment would be placed on the regular August ballot, which includes a regular county election. Now, the question has arisen as to whether the regular November election would also be considered a "regular county election."

As previously noted, TCA § 2-1-104(a)(7) defines "election," as "a general election for which membership in a political party in order to participate therein is not required." Both the regular August and the regular November elections involve "a general election for which membership in a political party in order to participate therein is not required." The statute considers these elections "regular" because the statute has established a formula that set the dates for these elections every even-numbered year.

Because both the "regular August election" and the "regular November election" are held throughout Shelby County where voters may participate without mention of party affiliation, the proposed charter amendment could be submitted to the voters on either of these regular elections.

If you have further questions regarding the timing on which to place a question on the ballot, please contact me. I hope that this information proves helpful.

Sincerely,


Brook K. Thompson
Coordinator of Elections