

University of Memphis

University of Memphis Digital Commons

Registry of Election Finance

Miscellaneous Tennessee Departmental
Publications

1-1-2015

2014 Annual Report to the Governor and the General Assembly

Tennessee. Bureau of Ethics and Campaign Finance.

Follow this and additional works at: <https://digitalcommons.memphis.edu/govpubs-tn-miscellaneous-departmental-publications-registry-election-finance>

Recommended Citation

Tennessee. Bureau of Ethics and Campaign Finance., "2014 Annual Report to the Governor and the General Assembly" (2015). *Registry of Election Finance*. 8.

<https://digitalcommons.memphis.edu/govpubs-tn-miscellaneous-departmental-publications-registry-election-finance/8>

This Annual Report is brought to you for free and open access by the Miscellaneous Tennessee Departmental Publications at University of Memphis Digital Commons. It has been accepted for inclusion in Registry of Election Finance by an authorized administrator of University of Memphis Digital Commons. For more information, please contact khggerty@memphis.edu.



**2014
Annual Report
to the
Governor and the General Assembly**

**Bureau of Ethics and Campaign Finance
Registry of Election Finance
404 James Robertson Parkway, Suite 104
Nashville, TN 37243
(615) 741-7959
<http://www.tn.gov/tref>**

Table of Contents

INTRODUCTION	1
The Registry	1
RESPONSIBILITIES	3
Campaign Finance Filings	3
Enforcement	3
Education and Information	6
YEAR IN REVIEW	8
Electronic Filing Update	8
Filings	8
Audits	12
Citizen's Guide	13
Civil Penalties	13
FUTURE	14
Goals	14

INTRODUCTION

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 currently 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.)

The Registry's board consists of a six member board appointed to five (5) year terms. Registry members receive no compensation; however, each member is reimbursed for travel expenses pursuant to state travel regulations. Registry members are appointed by the Governor and General Assembly. Below is a list of Registry members with their appointing authority, city of residence and term expiration:

- Governor
 - Patricia Heim, Nashville, December 31, 2016
 - Norma Lester, Memphis, December 31, 2016
- Senate Democratic Caucus
 - Kent Coleman, Murfreesboro, December 31, 2017
- Senate Republican Caucus
 - Tom Lawless, Nashville, December 31, 2017
- House Democratic Caucus
 - Henry Fincher, Cookeville, December 31, 2014
- House Republican Caucus
 - Justin Pitt, Franklin, December 31, 2014

The Registry normally meets on the second Wednesday of each month. A meeting agenda is posted on the Registry's web site, www.tn.gov/tref, one week in advance of any meeting. In addition, a notice of the Registry meeting is posted in the window of the Registry's first floor offices in Parkway Towers. Agendas are available in the Registry office and can be mailed to anyone who requests one. The Registry meetings are held in the Registry's office and are open to the public. Minutes of past meetings are available at the Registry's website after they have been approved by the Registry.

In 2009, a new entity was created in order to consolidate certain management and administrative functions of the Registry and the Tennessee Ethics Commission ("Commission"), in order to save the taxpayers of Tennessee and the regulated entities several hundred thousand dollars per year. The new entity is named the Bureau of Ethics

INTRODUCTION

and Campaign Finance (“Bureau”). Both the Registry and Commission continue to exist, with no change in their respective jurisdictions, powers, duties and authority.

Under the new structure, the staff of the Bureau consists of an executive director and nine additional staff. The staff of ten employees handles the duties of the Registry and Commission on a day to day basis. In addition to handling notification and input of campaign financial disclosure filings, some of the staff responsibilities include verifying the accuracy of the campaign finance filings, 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 Bureau is administratively attached to the Secretary of State’s office. The Secretary of State assists the Registry in administrative matters such as receipts, disbursements, budget, travel, personnel, information services and audit. This step was taken as a cost saving move and allows the Bureau to operate without the costs of having their own administrative staff.

RESPONSIBILITIES

Campaign Finance Filings

One of the main purposes for the creation of the Registry in 1989 was to house campaign financial disclosure filings and make them readily available to the public. The Campaign Financial Disclosure Act requires candidates for state office, multi-candidate committees (PACs) and single-measure committees (referendum committees) to file campaign finance reports with the Registry.

Candidates and PACs now file campaign financial disclosure reports at the same time based on the reporting year. In state election years (even numbered years) candidates and PACs file six (6) campaign finance reports. These reports consist of four (4) quarterly reports and two (2) pre-election reports that are filed 10 days before the primary and general elections. In non-election years (odd numbered years) candidates and PACs file two (2) semi-annual campaign finance reports.

Candidates, PACs and single-measure committees are required to file detailed information about their contributions and expenditures on the campaign finance reports. For example, for every contribution received over \$100 the report must contain detailed information including the name, address, occupation and employer of the contributor; date of contribution and amount of the contribution. Similar information is required for expenditures of over \$100.

Enforcement

The main goal of the Registry is for all campaign financial disclosure reports to be filed in a timely and accurate manner. The Registry staff reviews all campaign financial disclosure reports for errors. 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.

In addition to checking for minor disclosure errors, the Registry cross-checks disclosure reports to ensure that all contributions reported as being given by PACs are reported as being received by candidates.

The Registry also reviews campaign disclosure reports for compliance with the Contribution Limits Act. The Contribution Limits Act sets limits on the amount of contributions a candidate may receive from individuals and PACs.

When a filer does not file on time or when any other campaign finance statute is violated, the Registry has civil penalty authority. Late filing of a report up to 30 days late is a class one violation subject to civil penalties of up to \$25 a day for each day the report is filed late. Filing a report over 30 days late or any other violation of the Campaign Financial Disclosure Act is a class two violation normally subject to a civil penalty of up to \$10,000. A violation of the Contributions Limits Act is subject to a civil penalty of up to

RESPONSIBILITIES

\$10,000 or 115% of the amount of all contributions made or accepted excess of the limitations.

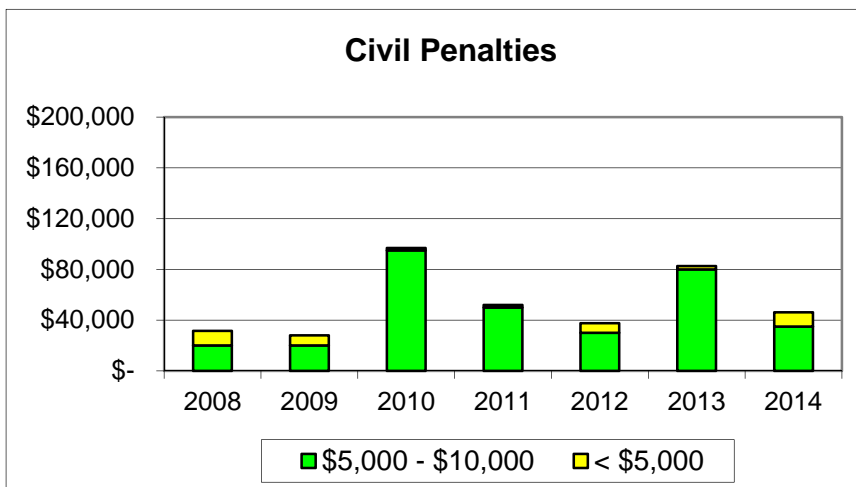
The Registry goes through several steps before assessing a civil penalty against an individual or organization. For example, a two week notification is sent to any candidate, PAC, or single measure committee owing a disclosure report notifying them of the report due and the due date. If the report is 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.

Any late filing, beyond the five (5) day grace period, or any other violation of the campaign finance statutes 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 whether the person or organization has had previous 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 the 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 and/or when an individual or group have had multiple violations of the statutes enforced by the Registry.

Breaking down the Registry's civil penalty assessments between large civil penalties, \$5,000 and greater 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 2014 the chart to the left shows that the Registry assessed \$35,000 (72%) in the four (4) civil penalty assessments where the civil penalty was \$5,000 or greater.

RESPONSIBILITIES

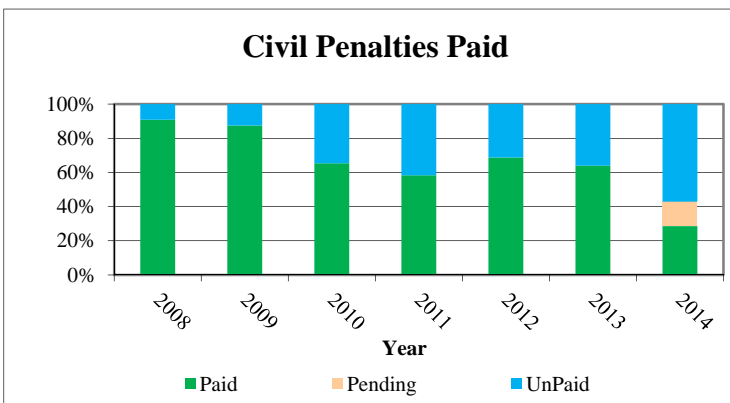
The remaining \$13,400 in civil penalties was assessed in 40 cases with each civil penalty being less than \$5,000. The trend is the same for the seven years shown in the chart. Overall during this seven year period, approximately 88% of the total amount of civil penalties were assessed in just 16 % of the civil penalty cases. These large assessments are mainly due to two (2) reasons: the large amount of civil penalties assessed in cases where the candidate or organization did not respond to the Registry's attempts to allow them to explain what caused their violation of the campaign finance statutes and repeat offenders.

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 the right to request a reconsideration from the Registry, anyone assessed a civil penalty may request a contested case hearing pursuant to the Uniform Administrative Procedures Act.

A 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.

A PAC that fails to file campaign financial disclosure reports for two (2) consecutive reporting periods, fails to pay a civil penalty assessment within 90 days of becoming final or no longer has an active mailing address may be administratively terminated. In addition, if the civil penalty is not paid within 30 days, the PAC is prohibited from receiving or making campaign contributions.



After a civil penalty assessment becomes final, the Registry makes every attempt to collect the civil penalty. In addition to the restrictions placed on candidates and PACs with outstanding civil penalties mentioned above, the Registry forwards every unpaid civil penalty assessment to the State Attorney General for

collection 30 days after the assessment becomes final. The Registry and the State Attorney General have collected or are receiving payments on approximately 65% of the civil penalties assessed since 2008. As shown in the chart above, the percentage of civil penalties paid on 2014 assessments will increase as the penalties become final and are turned over to the State Attorney General for collection.

RESPONSIBILITIES

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.

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, PACs, 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.tn.gov/tref). The Registry is continuously updating and making improvements to our website to ensure that we provide the best information available to our customer base in a cost efficient method.

For educational purposes, the website includes guides for candidates, PACs, single measure committees (referendum committees) and citizens. In addition, the web site contains filing calendars, blank reporting forms and links to the Registry's statutes and rules.

The Registry also uses the website to provide our customer base with the most up to date campaign finance information. The information includes summary data on every state candidate's campaign finance information since the 1996 election and campaign contributions made by PACs since 1996. In addition to the campaign finance summary information, the website contains a list of registered PACs, list of qualified candidates, lists of candidates and PACs who have failed to file campaign financial disclosure reports and copies of campaign audits.

In addition to the Registry's main website, the Registry maintains a website (<https://apps.tn.gov/tncamp>) that allows the public to view campaign financial disclosure statements, beginning with the 2004 elections, and to do searches on the data contained in these reports. As the public continues to become more aware of the information available on the campaign financial disclosure viewing site and the variety of ways that the data can be retrieved, the Registry expects the number of users to continue to increase.

While the websites are 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 staff members are 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

RESPONSIBILITIES

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 Tennessee Association of County Election Officials' 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 in each county.

Another seminar attended annually by the Registry staff is the Tennessee Lobbyist Association (TLA) seminar. While lobbyist registration and disclosure is now handled by the Tennessee Ethics Commission, many lobbyists are involved with PACs. As a result of the lobbyist's involvement with PACs, the TLA has requested the Registry to update them on campaign finance statutes at their annual seminar.

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 website for printing by any interested party.

YEAR IN REVIEW

Electronic Filing Update

The Registry is continually updating the internet based electronic filing system for campaign financial disclosure reports (TNCAMP). Every attempt is made to make the system easy and fast to use. The continued increase in the number of users requires the Registry to constantly work with the State and their contractors to have TNCAMP function properly during peak filing times.

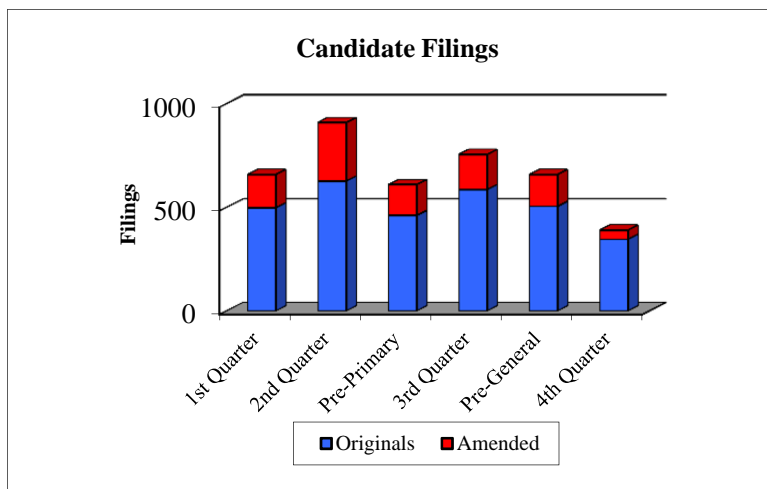
The search capabilities of the site were expanded in 2008. Now you may not only search for complete campaign financial disclosure reports filed by candidates and PACs, but you may search for specific data contained in those reports by a variety of categories. For example, you may now search for contributions by contributor name, type of contributor, occupation, employer and zip code. There are also several ways to restrict the results, for example, identifying specific reports to include in the results. The ability to search for expenditures was also enhanced. You can now search for expenditures by vendor names and zip codes.

Once you have decided what to search for, you may now choose which specific fields you want the system to display in your results. Once your results are displayed, you may view and sort them on-line or you may download the data to your computer.

Filings

Candidates

In 2014, state elections were held for Governor, State Senate (odd numbered districts), State Representatives (all districts), Supreme Court, Court of Appeals, Court of Criminal Appeals, Circuit Court, Criminal Court, Chancery Court, Probate Court, District Attorney General and Public Defender. For the first time, in 2014, candidates for Circuit Court, Criminal Court, Chancery Court and Probate Court filed campaign financial disclosure reports with the Registry. These candidates had previously filed campaign financial



disclosure reports in each county where they were on the ballot. Because of the added candidates filing with the Registry in 2014, the Registry received more campaign financial disclosure reports in 2014 than ever before.

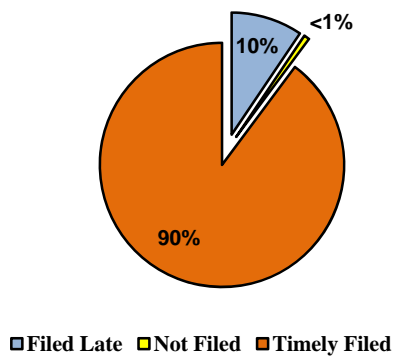
Candidates may be required to file up to six campaign financial disclosure reports in an

YEAR IN REVIEW

election year. As of the completion of this report, the Registry had received 3,023 original campaign financial disclosure reports from 2014 candidates in 2014. In addition, the Registry received 956 amended (corrected) campaign financial disclosure reports from 2014 candidates. The above chart shows the breakdown of original and amended campaign financial disclosure reports filed by 2014 candidates.

In addition to the 2014 candidates, candidates with open campaign accounts from past elections (1994 through 2013) and candidates with open accounts for future elections (2016 and 2018) were required to file mid-year and year-end supplemental campaign financial disclosure reports in 2014. As of the completion of this report, the Registry has received 124 mid-year and 111 year-end original and amended reports for 2014.

Candidate Filings



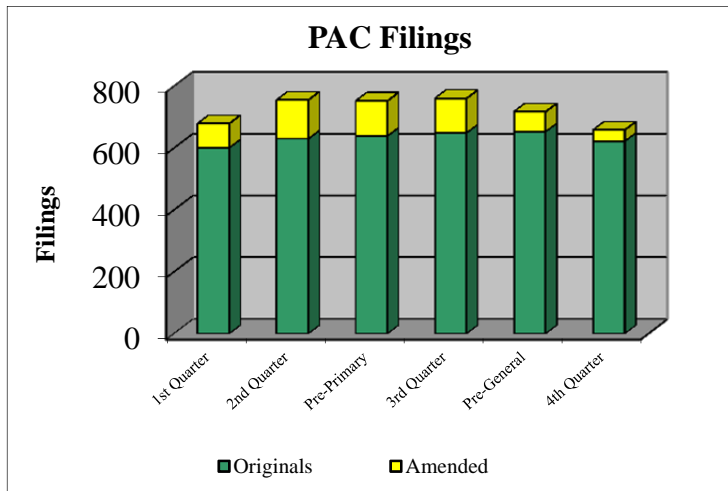
For the 2014 year, candidates from past, present and future elections were required to file 3,245 campaign financial disclosure reports. Of the 3,245 reports required to be filed with the Registry 2,913 were filed timely. Certified letters were sent out for the remaining 332 reports that were not filed 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 332 disclosures that were not filed timely, twenty-four still have not been filed as of the date of this report. The twenty-four reports still outstanding consist of one (1) second quarter, two (2) pre-primary, four (4) third quarter, and seventeen (17) fourth quarter reports.

The candidates failing to file the second quarter, pre-primary and third quarter have either been assessed civil penalties or are in the process of being assessed penalties by the Registry. Final actions on the candidates that have failed to file their fourth quarter reports are still pending. These candidates will be ineligible to qualify for election until the reports are filed and the civil penalties are paid

YEAR IN REVIEW

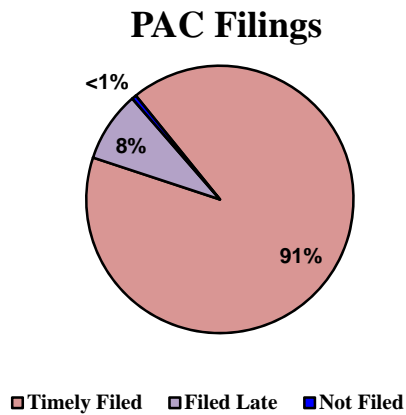
Multi-Candidate Committee (PACs)



Since 2006, PACs have been 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 the PACs made to candidates.

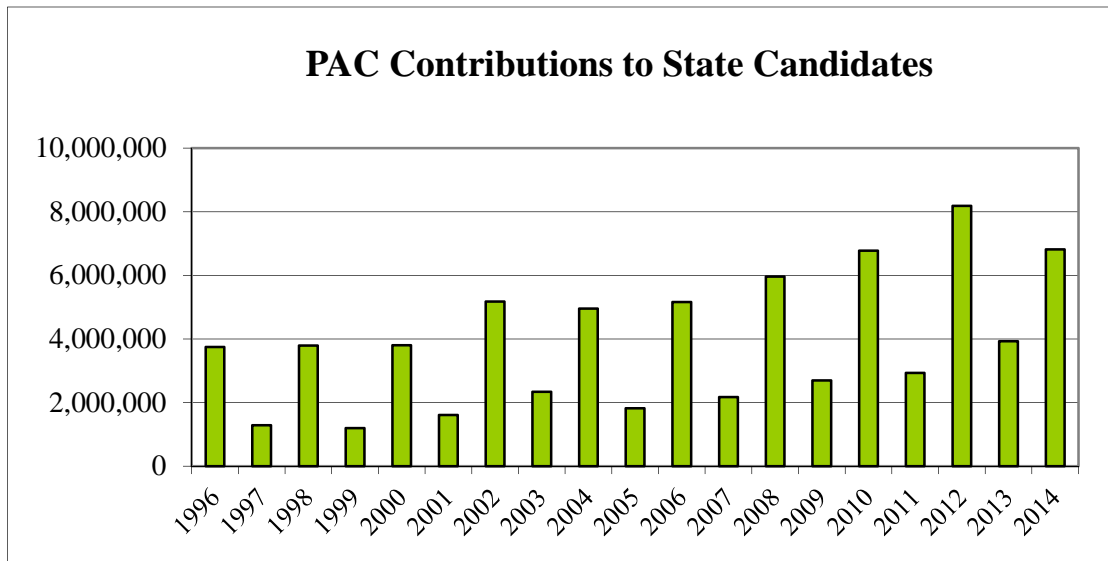
The Registry received 3,794 original campaign financial disclosure reports from PACs

in 2014. In addition, the Registry received 527 amended campaign financial disclosure reports from PACs in 2014. The chart above shows the breakdown of original and amended campaign financial disclosure reports filed by PACs in 2014.

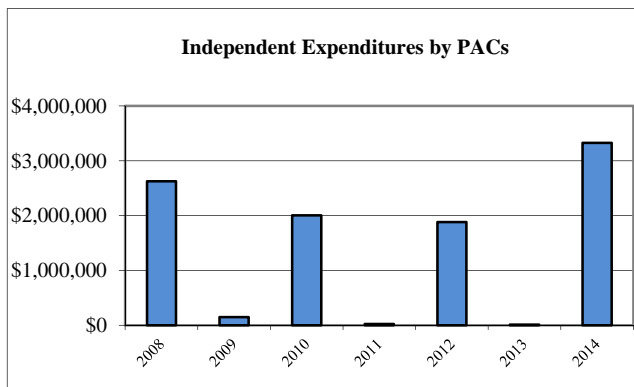


During 2014, PACs were required to file a total of 3,815 campaign financial disclosure reports with the Registry for the six reporting periods. Out of the 3,815 disclosure reports required to be filed with the Registry 3,468 were filed timely. Certified letters were sent to the remaining 347 PACs. Out of 347 late PAC reports for 2014, twenty-one (21) have still not been filed. The twenty-one reports still outstanding consist of three (3) pre-general and seventeen (17) fourth quarter reports.

YEAR IN REVIEW



PACs registered with the Registry made contributions totaling \$6,820,079 to state candidates during the 2014 reporting year. PAC contributions in 2014 were less than the \$8,185,652 given out during the 2012 calendar year. This breaks the trend that started in 2004 of rising PAC contributions when comparing election years (even numbered years) to election years and non-election years (odd numbered years) to non-election years.



In addition to the direct monetary and in-kind contributions, shown in the chart above, PACs also make independent expenditures. Independent expenditures are expenditures made to support or oppose candidates that are made without consulting the candidates or the candidates' committees. Thus, they are independent of the candidates and their committees.

Independent expenditures are not subject to contribution limits. However, PACs (groups that only make independent expenditures are required to register as PACs) that make independent expenditures are required to report independent expenditures in the same manner as direct campaign contributions.

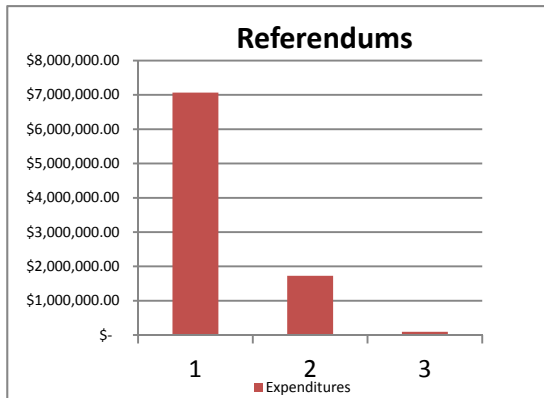
In 2014, PACs reported making a total of \$3,257,980 in independent expenditures. As shown in the above chart, independent expenditures increased by approximately \$1.3 million dollars from the 2012 to 2014 election year.

Single-Measure Committee (Referendum Committees)

There were four (4) state constitutional amendments (referendums) on the ballot in the November 2014 general election. The four referendums involved:

YEAR IN REVIEW

- Referendum 1 - Right to an Abortion
- Referendum 2 - Judicial Elections
- Referendum 3 - Income Tax
- Referendum 4 - Veteran Organizations and Charitable Gaming



Any group making expenditures to support or oppose one of the referendums was required to register with the Registry as a single-measure committee and file campaign financial disclosure reports. There were 13 groups registered to support or oppose the referendums. There were nine (9) groups registered for Referendum 1, two (2) for Referendum 2, two (2) for Referendum 3 and none for Referendum 4. Overall, the 13 groups spent a total of \$8,883,288 on the

three (3) referendums. No groups were registered for amendment 4. The chart shows the breakdown of the expenditures by referendum.

Audits

The Registry is required to conduct campaign audits on all gubernatorial candidates that receive 10% of the vote in the general election, approximately 2% of all legislative candidates for each election cycle and one candidate each for supreme court, court of appeals and court of criminal appeals.

Two gubernatorial candidates qualified for audit. Gubernatorial candidates required to be audited have the option to self-audit and submit the audit to the Registry for approval. Of the two candidates required to be audited, one chose to be self-audited.

For legislative elections, districts are selected by random draw until approximately 2% of legislative candidates are selected. The Registry was required to select at least five candidates for audit for 2014. House of Representative District 45 (3 candidates), House of Representative District 97 (1 candidate) and Senate District 1 (1 candidate) were chosen before the 2% was achieved.

One candidate for each office was chosen at random from the candidates for supreme court, court of appeals and court of criminal appeals.

The campaign finance audits from the 2014 elections will be will be conducted during 2015. These audits are presented to the Registry for approval and any necessary action before being posted to the Registry's website.

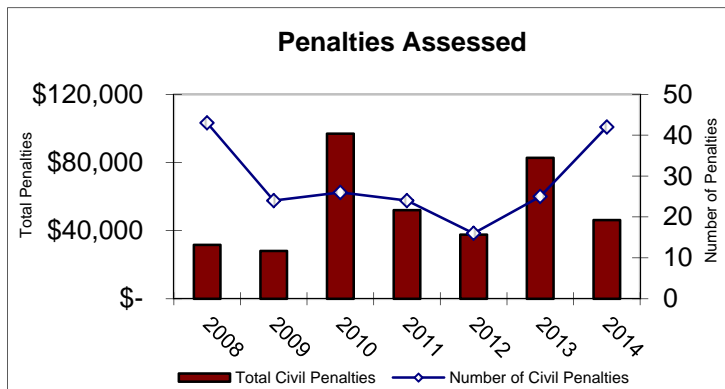
YEAR IN REVIEW

In addition to random campaign audits, the Registry is required to audit the unitemized contributions on a campaign finance report for any candidate who lists more than 30% of their total contributions as unitemized contributions and the amount is greater than \$5,000. So far for the 2014 election there have been fifteen (15) candidate reports that have been audited, presented to the Registry and posted to the Registry's website. There may be additional contribution audits necessary as the Registry closes out the 2014 election year.

Citizen's Guide

In 2008, the Registry added a Citizen's Guide to its website. The guide may be viewed on the website or printed. The main purpose of the guide is to advise citizens on how they may legally take an active part in the state and local election process and be in compliance with Tennessee campaign finance statutes. The Citizen's Guide is constantly updated as laws and rules change giving the public the latest information on campaign finance laws.

Civil Penalties



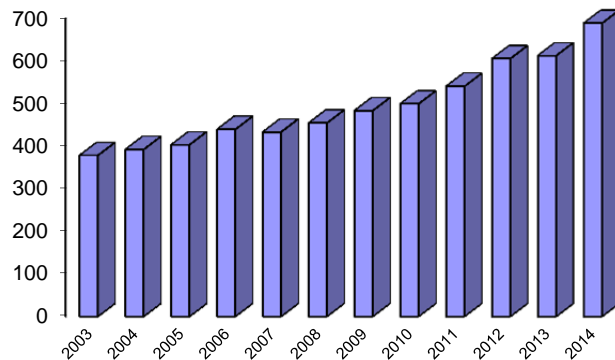
To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 42 individuals and organizations in 2014. In 14 of the cases the violations were class 1 violations, which carry a maximum penalty of \$25 a day for each day a campaign

financial disclosure report is filed late. The other 28 cases were class 2 violations, which carry civil penalties of up to of \$10,000 per violation.

In 2014, the 42 civil penalty assessments by the Registry totaled \$46,150. As the chart above shows, the number of civil penalties assessed was large compared to previous years however, the total amount of civil penalties assessed was small based on the number of penalties assessed. In fact, the average civil penalty assessed in 2014 was the smallest since 2008.

FUTURE

Register PACs



With the demands on the Registry increasing every year, the Registry will need to continue to become more efficient in order to meet its mandated duties.

The number of PACs registered with the Registry in 2014 was at an all-time high of 688. As can be seen in

the chart the number of registered PACs has increased almost 82% since 2003. For every new PAC there are six additional reports filed with the Registry in an election year that must be reviewed for errors and cross-indexed.

In addition to the increasing number of PACs, the Registry also added several hundred judicial candidates that are now required to register and file campaign financial disclosure with the Registry. In addition to more filings, campaigns are becoming more complicated with each election. The increased number of filings along with more complicated campaigns will require the Registry to be more efficient to handle its mandated duties without increasing its staff size or budget.

Goals

In 2015, the Registry hopes to continue to improve 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 in a more timely basis to the public.

As part of this improvement process, the Registry is currently rewriting TNCAMP, the campaign finance electronic filing system. As part of the update, large PACs will now be able to upload their contributor data straight into TNCAMP. This new feature will encourage PACs that had previously filing on paper, requiring staff to input their data, to file electronically.

Additionally, the updated TNCAMP will allow better use of the error check system by filers and staff. Fewer reports filed with errors will save the staff time in review of reports and notifying filers of the errors.