

**JUDICIAL ETHICS COMMITTEE  
ADVISORY OPINION NO. 97-6**

The committee has been asked to render an opinion for a general sessions judge in Hamilton County concerning the date that a candidate for general sessions judge can begin soliciting funds for the next election. By private act, two additional general sessions judges were created for Hamilton County and that act provided that subsequent elections to elect judges for the full terms would be on a “non-partisan” basis. The general law further provides that in any county with more than one judge of the General Sessions Court, and where the most recent private act creating additional judgeships provides for non-partisan elections, that elections for all general sessions judges in that county shall be on a non-partisan basis. See T.C.A. § 16-15-202(b).

Canon 5C.(2)(a) provides that a campaign committee may solicit contributions no earlier than 180 days before an election and no later than 90 days after the last election in which the candidate participates during the election year.

Comments to the above section of the code provide in part that, “Therefore, for the sake of uniformity, the 180-day period for all judicial offices that can possibly be subject to a primary election, whether or not there actually is a primary, shall begin to run from the date the primary would be held.” It is obvious from the commentary that the intent of the provision under review was to have a uniform rule applicable across the state to all judges, whether or not a primary is actually held. The only limitation appears to be in the language “that can possibly be subject to a primary election.”

A reading of the Hamilton County private act, along with the general law, makes it clear that Hamilton County will not have a primary election but will have non-partisan elections at the August general election. This might appear to limit the beginning

of fund raising for general sessions judges in that county. However, an analysis of the code, and the commentary, indicate an intent for uniformity whether or not a primary is actually held. In the case of general sessions judges in Hamilton County, although a primary appears highly unlikely, it is conceivable that our legislature could change this law and subject the general sessions judges to primary elections. This could be accomplished prior to the date primaries are held. For this reason, we conclude that it is possible that a primary election could be held in Hamilton County for the offices of general sessions judge.

We conclude that any candidate for judicial office (except a candidate subject to retention election) may begin soliciting campaign contributions, through a campaign committee, 180 days prior to the primary election date in this state.

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JOHN H. PEAY, Chairperson

CONCUR:

KURTZ  
FRIERSON  
PEETE (not participating)

November 4, 1997