

## — \$50 FINE LIMITATION OVERVIEW —

### *History*

The original Tennessee Constitution of 1796 contained a provision limiting fines in non-jury trials to \$50 by providing that:

*“No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.”* Art. V, Sec. XI of the 1796 Tennessee Constitution and Art. VI, Sec. 14 of the current Tennessee Constitution.

As time passes and government develops and changes, what once might have seemed sensible and adequate can become outdated. Contained in the 1796 Tennessee Constitution were, among other things, the following:

- A \$750 limit on the Governor’s salary.
- A \$600 limit on Superior Court judges salaries.
- A \$1.75 limit on daily compensation for legislators for each day of session.
- A provision requiring that a person must own at least 200 acres of land to be eligible for a seat in the General Assembly.

As the Tennessee Constitution has been amended from time to time since 1796, the \$50 limitation has been retained. As inflation has diminished the value of the dollar and as incomes have grown enormously, the threat of a \$50 fine has less deterrent effect than it once did.

Until recently, cities have not had a problem enforcing ordinances. In a 1964 ruling, the Tennessee Supreme Court held that the \$50 limit did not apply to sanctions levied for violations of city ordinances. The Court reasoned that the \$50 limit explicitly applies to **fines**, but the court found sanctions for violations of city ordinances to be **civil penalties**, not fines, and therefore not subject to the limit.

### *Problems Began to Appear*

In the late 1990s, three cases began working their way through the state court system (involving Metro Nashville, Chattanooga, and Nolensville). These cases sought to overturn the 1964 ruling. In light of the possibility that the Tennessee Supreme Court might overturn its 1964 ruling, in the Fall of 1999 the Tennessee Municipal League began the process of proposing an amendment to the state constitution.

On Sept 4, 2001, the Tennessee Supreme Court ruled that the “fine versus civil penalty distinction” is a distinction without a difference. However, the Court created a new distinction by ruling that:

- the \$50 limit applies when sanctions are levied for “punitive” purposes.
- the \$50 limit does not apply when sanctions are levied for “remedial” purposes.

Determining when the \$50 limit does and does not apply in light of the court's ruling is a terribly difficult matter that could take years of litigation to flesh out. TML decided to proceed with the process initiated in the Fall of 1999.

### *Outcome of TML Initiative*

- In the second regular session of the 101st General Assembly (2000) the resolution containing proposed change was approved by more than the required majority vote of the General Assembly.
- In the second regular session of the 102nd General Assembly (2002) the resolution was approved by more than the required two-thirds vote of the General Assembly.
- The proposal appeared on the general election ballot on Nov. 5, 2002, (the next gubernatorial election) as Question 2.
  - Question 2 received more yes votes than no votes
    - Yes votes = 701,142 (53%)
    - No votes = 621,884 (47%)
    - Total votes cast on Question 2 = 1,323,026
  - Governor's race
    - Total votes cast = 1,641,783
    - Votes needed for Constitutional amendment approval = 820,892
  - Outcome
    - Question 2 was not approved: Though a majority of those voting on Question voted "yes," the yes votes did not represent a majority of the total number votes cast in the Governor's race. Under the Tennessee Constitution, proposed amendments must be approved by a majority of the votes cast in the Governor's race, not a majority of those casting votes on the question.