

Amendment No. 2 to HB1386

Farmer
Signature of Sponsor

AMEND Senate Bill No. 282*

House Bill No. 1386

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-20-101, is amended by adding the following new subsection:

(e) If a judge or chancellor serving the judicial district in which a petition is filed under this chapter recuses himself or herself from presiding over an action under this chapter, the judge or chancellor shall immediately follow the procedures and policies established by the Tennessee administrative office of the courts or Rules of the Supreme Court of the State of Tennessee governing the recusal of a judge or chancellor.

SECTION 2. Tennessee Code Annotated, Section 8-20-102, is amended by deleting the section and substituting instead the following:

(a) The general assembly intends this chapter to provide an expedited process for resolving salary disputes in order to provide county officials quick relief and to protect taxpayers from unnecessary costs when gridlock occurs in the county budgeting process and a salary dispute is adjudicated under this chapter.

(b) If a county official listed in § 8-20-101 files a petition pursuant to this chapter, the official shall name the county mayor as the party defendant in the petition.

(c)

(1) Petitions brought under this chapter must receive docket priority over all other cases other than those involving the welfare of a child and must be resolved within one hundred twenty (120) days of the petition filing date, which

may be extended for up to an additional one hundred twenty (120) days in the discretion of the court or for good cause shown by the parties.

(2) The court shall hold a hearing on the petition and the answer thereto, for purposes of developing the facts and issues in question, and may hear proof for or against the petition. The court may allow or disallow the application, either in whole or in part, and may approve the entire number of deputies or assistants applied for or a lesser number, and may approve the salaries set out in the application or reduced salaries, as the facts justify.

(d) After passing a county's budget pursuant to applicable budgeting laws, the applicable county commission, both as a body and as individual commissioners, do not have a further role in the budgeting process and do not have standing pursuant to this chapter.

(e) A county official who files a petition and the county mayor shall engage in mediation within thirty (30) days of filing the petition. The judge or chancellor presiding over the petition may award sanctions against a party who fails to negotiate in good faith in accordance with this subsection (e).

(f) A copy of the petition must be served on the county mayor or the county mayor's agent as permitted by applicable law, who shall file an answer to the petition within five (5) days from the date of service of the petition, either admitting the allegations of the petition or denying the same, or making such answer as the county mayor deems advisable under the circumstances.

(g) The court shall schedule a mandatory preliminary conference within twenty (20) days after the answer is filed, or if a judge or chancellor is recused from the case, the court shall schedule the preliminary conference within twenty (20) days after the transfer of the case to another court or to another judge or chancellor, as applicable.

(h) At the preliminary conference, the petitioner and the defendant shall present their respective proposed discovery and litigation plans outlining anticipated discovery to the court for approval.

(i) At the preliminary conference or within ten (10) business days following the preliminary conference, the court shall enter a scheduling order that must include an approved discovery and litigation plan based on information submitted in accordance with subsection (h).

(j) The court shall determine the reasonableness of the discovery and litigation plans presented under subsection (h). In considering the reasonableness of each party's discovery and litigation plan, the court shall consider the potential harm to the economic health to the county in relation to each party's need for the discovery in order to prove their cases. Anything in excess of the following will be deemed presumptively unreasonable:

(1) Thirty (30) requests for interrogatories, including subparts, per party;

(2) Thirty (30) requests for admissions, including subparts, per party;

(3) Thirty (30) requests for the production of documents, including subparts, per party;

(4) Three (3) depositions per party, in addition to the depositions of experts; and

(5) Two (2) experts per party.

(k) If the court finds that a party has overcome the presumption of unreasonableness outlined in subsection (j), the court shall include specific findings in support of the scheduling order.

SECTION 3. Tennessee Code Annotated, Section 8-20-107, is amended by deleting the section and substituting instead the following:

(a) The cost of all cases must be paid out of the fees of the office collected by such officers, and they and each of them must be allowed a credit for the same in settlement with the county trustee.

(b) An award of attorney's fees must be consistent with and awarded pursuant to Rule 8 of the Rules of the Supreme Court of the State of Tennessee, Rules of Professional Conduct 1.5, or the corresponding subsequent rule of the Tennessee supreme court. The court shall determine the reasonableness of attorney's fees for all parties, and in making that determination, the court shall consider the factors in Rule 8 of the Rules of the Supreme Court of the State of Tennessee, Rules of Professional Conduct 1.5.

SECTION 4. This act takes effect July 1, 2022, the public welfare requiring it, and applies to petitions filed on or after that date.