

Amendment No. 1 to HB1895

Faison
Signature of Sponsor

AMEND Senate Bill No. 1572*

House Bill No. 1895

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

SECTION 1. Tennessee Code Annotated, Section 4-5-102, is amended by deleting subdivision (10) and substituting instead the following:

(10) "Policy" means any statement, document, or guideline prepared or issued by any agency pursuant to its delegated authority that merely defines or explains the meaning of a statute or a rule. "Policy" also means any statement, document, or guideline concerning only the internal management of state government that does not affect private rights, privileges, or procedures available to the public. For purposes of this subdivision (10), "internal management" means the administration of an agency's internal operations for the purpose of facilitating operational effectiveness and efficiency;

SECTION 2. Tennessee Code Annotated, Section 4-5-102, is further amended by deleting subdivision (12) and substituting instead the following:

(12) "Rule" means any agency regulation, standard, statement, or document of general applicability that is not a policy as defined in subdivision (10) that:

(A) Describes the procedure or practice requirements of an agency; or

(B) Implements, prescribes, or interprets an enactment of the general

assembly or congress or a regulation adopted by a federal agency. "Rule" includes the establishment of a fee and the amendment or repeal of a prior rule.

"Rule" does not include:

(i) Declaratory orders issued pursuant to § 4-5-223;

(ii) Intra-agency memoranda;

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(iii) General policy statements that are substantially repetitious of existing law;

(iv) Agency statements that:

(a) Relate to the use of the highways and are made known to the public by means of signs or signals; or

(b) Relate to the curriculum of individual state-supported institutions of postsecondary education or to the admission or graduation of students of such individual institutions but not to the discipline or housing of students;

(v) Rate filings pursuant to title 56, chapters 5 and 6; or

(vi) Statements concerning inmates of a correctional or detention facility, or statements concerning offenders who are serving a sentence under probation or parole in the community; and

SECTION 3. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following as new sections:

4-5-230.

(a)

(1) On July 1 of every year, each agency that is subject to review under title 4, chapter 29 shall submit a list of all policies that have been adopted by the agencies in the past year to the chair of the government

operations committee of the senate and the chair of the government operations committee of the house of representatives.

(2) The information submitted under subdivision (a)(1) shall include a summary of the policy and the agency's justification for adopting a policy on the subject instead of promulgating a rule.

(b) The following information shall not be required to be submitted to the chairs of the committees under subdivision (a)(2):

(1) Records or other information deemed to be confidential under title 10, chapter 7, part 5 or otherwise not required to be disclosed or made available under § 10-7-503(a); and

(2) Records or other information that are required by an agency of the federal government for the purposes of securing federal funds, complying with federal law, maintaining national security, or qualifying for or maintaining required accreditation, the failure of which could jeopardize the loss of a federal program, funds, or accreditation.

(c) This section shall apply to all policies that are proposed or developed by agencies on or after July 1, 2018.

4-5-231.

(a) No agency created by statute and subject to review under title 4, chapter 29 shall promulgate rules or implement policies that infringe on an agency member's freedom of speech in violation of the constitution of Tennessee, Article I, § 19, or the First Amendment of the United States Constitution.

(b) An agency's appointing authority shall have sole power to remove a member from a board, commission, council, committee, authority, task force, or

other similar multi-member agency created by statute and subject to review under title 4, chapter 29.

SECTION 4. This act shall take effect July 1, 2018, the public welfare requiring it.