

HOUSE BILL 740

By Odom

AN ACT to amend Tennessee Code Annotated, Title 2;
Title 3; Title 4; Title 8 and Title 39, Chapter 16,
relative to ethics in government.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-6-205, is amended by deleting the section in its entirety and by substituting instead the following:

§ 3-6-205.

(a) Notwithstanding §§ 3-6-201 - 3-6-203, the Tennessee ethics commission may impose a civil penalty for a violation of title 8, chapter 50, part 5, as provided in this section.

(1) "Class 1 offense" means the late filing of any report or statement required by title 8, chapter 50, part 5. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) per day, up to a maximum of seven hundred fifty dollars (\$750).

(A) The Tennessee ethics commission shall have personally served upon, or sent by return receipt requested mail, an assessment letter to any person required to file, upon the commission's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and shall continue to accrue until the report is filed, or for thirty (30) days, whichever occurs first.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission.

(2) "Class 2 offense" means failing to file a report required by title 8, chapter 50, part 5, within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of title 8, chapter 50, part 5, except where another penalty is prescribed by law. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000).

(A) For any Class 2 offense, the Tennessee ethics commission shall send an assessment letter to a person required to file, in a form sufficient to advise the person required to file, of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a person required to file for correction, a copy of the original shall be retained on file until the corrected report is returned to the Tennessee ethics commission. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 2 offense, a person shall file a petition with the commission.

(b) Upon the filing of a request as provided by subdivisions (a)(1)(B) or (a)(2)(B), the commission shall conduct a contested case hearing and issue an appropriate order following a determination.

(c) Any candidate for state public office who fails to file any statement or report required by title 8, chapter 50, part 5, shall be ineligible to qualify for election to any state public office until the statement or report is filed with the commission.

SECTION 2. This act shall take effect October 1, 2009, the public welfare requiring it.