

State of Tennessee

PUBLIC CHAPTER NO. 1087

SENATE BILL NO. 1005

By Mr. Speaker McNally; Haile

Substituted for: House Bill No. 1201

By Mr. Speaker Cameron Sexton; Whitson, Jernigan, Williams, Hazlewood, Kumar, Mannis, Ramsey, Freeman, Hardaway, White, Howell

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 10, Part 1; Title 2, Chapter 10, Part 2; Title 3, Chapter 1, Part 1; Title 3, Chapter 6, Part 1; Title 3, Chapter 6, Part 2; Title 4, Chapter 55 and Title 8, Chapter 50, Part 5, relative to government reform.

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

SECTION 1. Tennessee Code Annotated, Section 2-10-110, is amended by adding the following as a new subsection:

(g) The registry shall not accept a settlement in which the aggregate amount of assessed civil penalties exceeds twenty-five thousand dollars (\$25,000) unless the settlement proposal is considered at either a regular meeting or, notwithstanding § 2-10-203(f), a special meeting called by the chair in which at least twenty-four (24) hours' notice is given to each member of the registry and each party seeking a settlement proposal. If a special meeting is called pursuant to this subsection (g), an agenda for the meeting must be placed on the registry's website at least twenty-four (24) hours prior to the meeting. The agenda must include the style of any matter to be considered, and the special meeting must be limited to consideration of only the matters listed on the agenda.

SECTION 2. Tennessee Code Annotated, Section 2-10-203, is amended by adding the following as a new subsection:

(l) Each regular meeting agenda must be published on the registry's website at least five (5) business days prior to the date of the meeting.

SECTION 3. Tennessee Code Annotated, Section 3-6-103, is amended by adding the following as a new subsection:

(l) Each regular meeting agenda must be published on the commission's website at least five (5) business days prior to the date of the meeting.

SECTION 4. Tennessee Code Annotated, Section 3-6-205, is amended by adding the following as a new subsection:

(c) The commission shall not accept a settlement in which the aggregate amount of assessed civil penalties exceeds twenty-five thousand dollars (\$25,000) unless the settlement proposal is considered at either a regular meeting or, notwithstanding § 3-6-103(f), a special meeting called by the chair in which at least twenty-four (24) hours' notice is given to each member of the commission and each party seeking a settlement proposal. If a special meeting is called pursuant to this subsection (c), an agenda for the meeting must be placed on the home page of the commission's website at least twenty-four (24) hours prior to the meeting. The agenda must include the style of any matter to be considered, and the special meeting must be limited to consideration of only the matters listed on the agenda.

SECTION 5. Tennessee Code Annotated, Section 4-55-101, is amended by adding the following as a new subsection:

(e) Each regular meeting agenda must be published on the bureau's website at least five (5) business days prior to the date of the meeting.

SECTION 6. Tennessee Code Annotated, Section 2-10-117, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 2-10-107(a)(2)(B), is amended by deleting the language "including the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted" and substituting "including the full name and address of each person to whom an expenditure was paid during the period for which the statement is submitted"; and is further amended by deleting the last sentence of the subdivision and substituting instead the following:

The statement must list the expenditures by category and amount.

SECTION 8. Tennessee Code Annotated, Section 2-10-107, is amended by adding the following as a new subsection:

(_) Notwithstanding this section to the contrary, a candidate's statement may only have up to two thousand dollars (\$2,000) of unitemized contributions. Once the two-thousand-dollar (\$2,000) amount has been reached for a statement period, any contribution received thereafter must be itemized as provided in subdivision (a)(2)(A) regardless of amount.

SECTION 9. Tennessee Code Annotated, Section 2-10-212(i), is amended by designating the existing language as subdivision (1) and adding the following subdivision (2):

(2) Subdivision (i)(1) does not apply to reports covering periods beginning on and after January 16, 2023.

(3) Beginning with reports covering periods beginning on and after January 16, 2023, if any candidate files a contribution statement with more than thirty percent (30%) of the candidate's contributions reported as unitemized contributions, then the candidate's contributions shall automatically be audited by the registry.

SECTION 10. Tennessee Code Annotated, Section 2-10-105, is amended by deleting subsection (h) and substituting instead the following:

(h)(1) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall, by telegram, facsimile machine, hand delivery, overnight mail delivery, or electronically, file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), of:

(A) The full name and address of each person or political campaign committee from whom the candidate or committee has received and accepted a contribution, loan, or transfer of funds during such period and the date of the receipt of each contribution that, in the aggregate, equals or exceeds the following amounts:

(i) For a committee participating in the election of a candidate for any statewide office, five thousand dollars (\$5,000);

(ii) For a committee participating in the election of a candidate for senate, three thousand dollars (\$3,000); and

(iii) For a committee participating in the election of any other state or local public office, one thousand dollars (\$1,000); and

(B) The full name and address of each person or recipient entity who was paid or who owes an obligation during the period equal to or exceeding the following amounts:

(i) For a committee participating in the election of a candidate for any statewide office, five thousand dollars (\$5,000);

(ii) For a committee participating in the election of a candidate for senate, three thousand dollars (\$3,000); and

(iii) For a committee participating in the election of any other state or local public office, one thousand dollars (\$1,000).

(2) Any report filed pursuant to subdivision (h)(1) must include the amount, date, and a brief description of each such contribution, expenditure, or loan reported, and a valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan. For an independent expenditure, the report must include the name of the candidate or measure supported or opposed.

(3) Each report required by subdivision (h)(1) shall be filed by the end of the next business day following the day on which the contribution or expenditure to be reported is received or made.

(4) The registry shall develop appropriate forms for the report required by subdivision (h)(1) and make such forms available to the candidates and the county election commissions.

(5)(A) Each report filed under subdivision (h)(1) with the registry of election finance must be posted on the website of the registry as soon as practicable. The registry shall develop an electronic filing system for reports required under subdivision (h)(1).

(B) Each report filed under subdivision (h)(1) with a county election commission must be posted on the website of the commission as soon as practicable, if the commission otherwise posts campaign finance reports. A county election commission may develop an electronic filing system for reports required under subdivision (h)(1).

(6) An expenditure or contribution reported under this subsection (h) must not be omitted or excluded from applicable reports filed pursuant to subsection (c).

SECTION 11. Tennessee Code Annotated, Section 2-10-110(f), is amended by deleting subdivision (1) and substituting instead the following:

(1)(A) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308, any person who directly controlled expenditures is personally liable for the penalty.

(B) Notwithstanding subdivision (f)(1)(A), for any civil penalty authorized by this section or § 2-10-308 and levied against a multicandidate political campaign committee that named or certified one (1) or more candidates as a treasurer or officer at the time an offense occurred, or was constructively controlled or directed by one (1) or more candidates in the commission of an offense, the candidate, or candidates, and any person who directly controlled expenditures for the committee are personally liable for the penalty.

(C) Any civil penalty for a Class 2 offense must not be paid using funds from a multicandidate political campaign committee.

SECTION 12. Tennessee Code Annotated, Section 2-10-106(b), is amended by deleting the subsection and substituting instead the following:

(1) A candidate or political campaign committee that complies with the requirements of § 2-10-105(a) and (b), as applicable, and § 2-10-131(a), shall ensure that all funds in a campaign account remain separate and segregated at all times from other funds, including from personal funds.

(2) Funds maintained in a separate, segregated campaign account in accordance with subdivision (b)(1) are not the personal property of a candidate or other individual. Such funds are not subject to garnishment or any type of execution to satisfy the debts or obligations of an individual that are not campaign debts or obligations.

(3) A candidate or political campaign committee found to be in violation of subdivision (b)(1) commits a Class 2 offense and is subject to a civil penalty by the registry of election finance of not more than twenty-five dollars (\$25.00) per day up to a maximum of not more than ten thousand dollars (\$10,000).

SECTION 13. Tennessee Code Annotated, Section 2-10-132, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b)(1) Notwithstanding another law to the contrary, an organization that is tax exempt under United States Internal Revenue Service Code § 501(c)(4), (5), or (6) (26 U.S.C. § 501(c)(4), (5), or (6)) is required to report expenditures in accordance with § 2-10-105(c)(1) and (h) during the remainder of an election year and certify the name and address of any person who directly controls such expenditures along with any such person's evidence of identification as defined in § 2-10-105(e)(3)(C) to the registry of election finance if:

(A) The organization expends an aggregate total of at least five thousand dollars (\$5,000) in organizational funds, moneys, or credits for communications that expressly contain the name or visually depict the likeness of a state candidate in a primary or general election; and

(B) Such expenditures or communications occur within sixty (60) calendar days immediately preceding a primary or general election in which the named or visually depicted candidate appears on the ballot.

(2) This subsection (b) does not require an organization that is tax exempt under United States Internal Revenue Service Code § 501(c)(4), (5), or (6) (26 U.S.C. § 501(c)(4), (5), or (6)) to report any form of contributions.

(3) As used in this subsection (b), "communications" does not include:

(A) Any communication by any membership organization solely to its members, employees, or to any person who has expressly consented to receiving communications from the organization;

(B) Any communication made prior to the period described in subdivision (b)(1)(B) but that remains accessible during the period; provided, that such communication is not actively promoted or distributed by the organization within the period to the public at large excluding any person described in subdivision (b)(3)(A); or

(C) Any communication made to an official in the legislative branch or an official in the executive branch during any session of the general assembly.

SECTION 14. Tennessee Code Annotated, Section 2-10-203, is amended by deleting subdivisions (c)(2) and (3) and substituting:

(2) The senate shall appoint two (2) members, with one (1) member to be chosen by the members of the senate democratic caucus and one (1) member to be chosen by the members of the senate republican caucus. The registry is required to notify in writing the appropriate caucus and speaker of the senate within a reasonable time upon the expiration of a member's term or a vacancy occurring. If either caucus fails to appoint a member within sixty (60) days after receiving written notice of a vacancy from the registry or after receiving written notice of the expiration of a term from the registry, the speaker of the senate shall appoint a democrat or republican, as applicable, to fill the vacancy or make the appointment; and

(3) The house of representatives shall appoint two (2) members, with one (1) member to be chosen by the members of the house of representatives democratic caucus and one (1) member to be chosen by the members of the house of representatives republican caucus. The registry is required to notify in writing the appropriate caucus and speaker of the house of representatives within a reasonable time upon the expiration of a member's term or a vacancy occurring. If either caucus fails to appoint a member within sixty (60) days after receiving written notice of a vacancy from the registry or after receiving written notice of the expiration of a term from the registry, the speaker of the house of representatives shall appoint a democrat or republican, as applicable, to fill the vacancy or make the appointment.

SECTION 15. Tennessee Code Annotated, Section 2-10-203, is amended by adding the following as subsection (j):

(j) Subsection (h) is applicable for one (1) year subsequent to the removal, vacancy, or termination of the term of office of a member of the registry.

SECTION 16. Tennessee Code Annotated, Section 2-10-212, is amended by adding the following sentence at the end of subdivision (b)(3):

The registry shall strive to complete and release its findings within such odd-numbered year or another odd-numbered year.

and is further amended by deleting subsection (c) and substituting instead the following:

(c) In order to comply with an audit, candidates, campaigns, and political campaign committees shall retain copies of all checks, money orders, wire or account transfer statements, withdrawal statements, credit or debit statements, bank statements, vendor receipts, and other documentation directly resulting from a financial transaction involving the receipt or disbursement of any funds subject to disclosure under part 1 of this chapter for two (2) years after the date of the election to which the records refer.

SECTION 17. Tennessee Code Annotated, Section 2-10-125, is amended by adding the language "or campaign services" immediately following the language "consulting services" wherever it appears; and by adding the following new subsections:

(e) If a person or entity contracts to pay a member of the general assembly or a staff person or employee of the general assembly a fee, commission, or other form of compensation, for the provision of campaign services to a candidate for state office, the person or entity shall make the disclosures required under subdivisions (a)(1)-(5) with respect to the campaign services provided. A copy of any disclosure submitted to the Tennessee ethics commission under this subsection (e) shall be sent by the commission to the registry of election finance.

(f) As used in this section, "campaign services" means services to advise or assist a candidate, political campaign committee, affiliated political campaign committee, or multicandidate political campaign committee in affecting the result of a state election, including, without limitation, campaign work, paper and electronic advertising, producing mailers and fliers, and distributing mailers and fliers.

SECTION 18. Tennessee Code Annotated, Section 2-10-125(d), is amended by deleting subdivision (d)(1) and substituting instead the following:

(1) It is a Class A misdemeanor for a person or entity to knowingly fail to file a disclosure or to knowingly provide false, incomplete, or misleading information on the disclosure form.

SECTION 19. Tennessee Code Annotated, Section 2-10-126, is amended by adding the language "or campaign services" immediately following the language "consulting services" wherever it appears; and by adding the following new subsections:

(e) If a member of the general assembly or a staff person or employee of the general assembly contracts to receive a fee, commission, or other form of compensation, for the provision of campaign services to a person or entity involving a state election, the member, staff person, or employee shall make the disclosures required under § 2-10-125(a)(1)-(5) with respect to the campaign services provided. A copy of any disclosure submitted to the Tennessee ethics commission under this subsection (e) shall be sent by the commission to the registry of election finance.

(f) As used in this section, "campaign services" means services to advise or assist a candidate, political campaign committee, affiliated political campaign committee, or multicandidate political campaign committee in affecting the result of a state election, including, without limitation, campaign work, paper and electronic advertising, producing mailers and fliers, and the distribution thereof.

SECTION 20. Tennessee Code Annotated, Section 2-10-126(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) It is a Class A misdemeanor for a person or entity to knowingly fail to file a disclosure or to knowingly provide false, incomplete, or misleading information on the disclosure form.

SECTION 21. Tennessee Code Annotated, Section 2-10-125(a), is amended by deleting subdivision (1) and substituting instead the following:

(1) The person to whom the fee was paid, including the full names and identities of any person or other entity through which payment flowed to or from the person making the disclosure;

SECTION 22. Tennessee Code Annotated, Section 2-10-123(a) and (b), are amended by deleting the language:

member of the general assembly, member-elect of the general assembly, governor, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury

and substituting instead the following language:

member of the general assembly, member-elect of the general assembly, governor, member of the governor's cabinet, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury

SECTION 23. Tennessee Code Annotated, Section 8-50-502, is amended by adding the following new subdivision:

(11)(A) By any member of the general assembly or candidate for the general assembly, the name of any multicandidate political committee established or controlled by the member or candidate within the immediately preceding five (5) years of the date of the disclosure;

(B) Disclosure under this subdivision (11) must be made annually beginning with the candidate or official's next statement due after January 1, 2023.

SECTION 24. Tennessee Code Annotated, Section 8-50-501(a), is amended by deleting subdivision (6) and substituting:

(6) Each supreme court justice, judge of the court of criminal appeals, judge of the court of appeals, chancellor, circuit court judge, criminal court judge, or judge of a state trial court of record;

SECTION 25. Tennessee Code Annotated, Title 8, Chapter 50, Part 5, is amended by adding the following new section:

8-50-507.

Each disclosure statement or amendment to a disclosure statement filed under this part must be signed either in writing or electronically under penalty of perjury, and contain substantially the following language:

I understand that, pursuant to T.C.A. § 8-50-507, submitting a disclosure or amendment to a disclosure form which contains false or incomplete information may subject me to the penalties of perjury. The information contained in this disclosure or amendment to a disclosure form is true, complete, and correct to the best of my knowledge, information, and belief.

_____ Signature _____ Date

SECTION 26. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following as a new section:

A candidate or political campaign committee, in soliciting and receiving a contribution from a person, shall not utilize pre-checked or pre-marked boxes in a solicitation authorizing or requiring continuing future contributions to that candidate or committee from the credit card or another form of payment provided by the person from whom a contribution is requested. Such a request for a continuing future contribution from a potential contributor must be accepted and acknowledged in writing by the potential contributor in clear and precise language evidencing the intent of the contributor to authorize a continuing contribution. Such continuing contributions must not exceed the contribution limits established in part 3 of this chapter.

SECTION 27. Tennessee Code Annotated, Section 2-10-105(e), is amended by deleting subdivision (2) and substituting instead the following new subdivisions:

(2) In addition to the requirements in subdivision (e)(1), a multicandidate political campaign committee shall also certify the name and address of all officers of such committee and of all persons who directly control expenditures to the registry of election finance. A multicandidate political campaign committee must have at least one (1) officer, not including the treasurer of such committee, and must have at least one (1) person who directly controls expenditures.

(3)(A) Any multicandidate political campaign committee that registers on or after July 1, 2022, must submit to the registry of election finance evidence of identification for each officer, person who directly controls expenditures, and treasurer of the multicandidate political campaign committee prior to the committee making expenditures or receiving contributions. For any multicandidate political campaign committee in existence on the effective date of this act, the committee must submit any such required evidence of identification by January 31, 2023.

(B) After a multicandidate political campaign committee submits evidence of identification under subdivision (e)(3)(A), if the committee designates a new person as designated in subdivision (e)(3)(A), the committee shall submit evidence of identification for such person within thirty (30) days of the designation.

(C) As used in this subdivision (e)(3), "evidence of identification" has the same meaning as such term is used in § 2-7-112(c) except that when a Tennessee identification is specified in that section, any other equivalent identification issued by another state may be used for purposes of this section.

SECTION 28. Tennessee Code Annotated, Section 3-6-103(c)(1), is amended by adding the following language after the language "appear on the second list of candidates" in subdivisions (B) and (C):

. The ethics commission is required to notify in writing the appropriate caucus and speaker within a reasonable time upon the expiration of a member's term or a vacancy occurring. If a caucus fails to give the speaker a list of candidates within sixty (60) days after receiving written notice of a vacancy from the ethics commission, receiving written notice of the expiration of a term from the ethics commission, or requesting a second list of candidates, the speaker shall appoint a member of the majority party or member of the minority party, as applicable

SECTION 29. Tennessee Code Annotated, Section 3-6-103(c)(2), is amended by deleting the language:

Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

and substituting instead:

In the event of a vacancy, the respective appointing authority shall fill the vacancy for the unexpired term.

SECTION 30. Tennessee Code Annotated, Section 2-10-203(d), is amended by deleting the subsection and substituting instead the following:

(d) In the event of a vacancy, the respective appointing authority shall fill the vacancy for the unexpired term.

SECTION 31. (a) Sections 1-6 and 26 of this act take effect upon becoming a law, the public welfare requiring it.

(b) Sections 7 and 8 of this act take effect January 16, 2023, the public welfare requiring it.


(c) Sections 17-21 of this act take effect August 15, 2022, the public welfare requiring it.

(d) All other sections of this act take effect July 1, 2022, the public welfare requiring it.

SENATE BILL NO. 1005

PASSED: April 28, 2022


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of May 2022


BILL LEE, GOVERNOR