

PUBLIC CHAPTER NO. 1182

SENATE BILL NO. 3595

By Henry, Norris

Substituted for: House Bill No. 3753

By Todd, Rinks, Favors

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 6, relative to lobbying.

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

SECTION 1. Tennessee Code Annotated, Section 3-6-307, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if the person receives such reimbursement for more than ten (10) days per year, then the person shall register as a lobbyist and shall comply with all lobbyist requirements imposed pursuant to this chapter; provided, however, that the commission shall waive such person's registration fee and such person shall be exempt from payment of the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1).

SECTION 2. Tennessee Code Annotated, Section 3-6-107, is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) Issue written advisory opinions to any person subject to the jurisdiction of the commission in accordance with § 3-6-117 and § 3-6-308(a)(4). When issuing any advisory opinion or any other interpretive document, the commission shall review and consider all operative statutory provisions as well as the legislative history pertaining to such statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates;

SECTION 3. Tennessee Code Annotated, Section 3-6-102, is amended by adding the following language at the end of the section:

A determination of the intent of the general assembly, shall be based on the operative statutory provisions as well as the legislative history pertaining to such statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates.

SECTION 4. Tennessee Code Annotated, Title 3, Chapter 6, Part 1, is amended by adding the following language as a new section as follows:

3-6-117.

(a) The commission is the only entity authorized to issue formal advisory opinions. All opinions which deal with any statutory provision or provisions which are in any way subject to interpretation, unclear or uncertain, or subject to dispute as to their meaning or application are formal advisory opinions. With respect to an issue addressed in a formal advisory opinion, any person who conforms that person's behavior to the requirements of the advisory opinion shall not be sanctioned if it is later determined that such advisory opinion did not correctly interpret the statute. A person who requests an advisory opinion shall be entitled to withdraw the request at any time before the opinion is issued, in which case the commission shall not issue the opinion.

(b)(1) Except as provided in this subsection, under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, including an informal response.

(2) A person performing staff duties as the executive director or as an attorney is authorized to give informal responses to any person subject to the jurisdiction of the commission in accordance with this subsection (b).

(3) The commission shall make and keep records of all inquiries and all informal responses given, including the name and position of the person making the inquiry; the entity, if any, on behalf of which the inquiry is made; the date of the inquiry; the person responding to the inquiry; the precise inquiry, including the facts and background information provided and the section or sections of statute involved; and the answer or response given.

(4) The commission shall compile all of the foregoing information, which shall include a mechanism to ascertain the responses to all inquiries about the same statutory section, so that such responses will be consistent or can be prudently revised if necessary.

(5) An informal response may be given verbally or by electronic mail. Any verbal informal response shall be verified by electronic mail. Whether or not a request for an informal response is answered verbally, all informal responses shall be issued by electronic mail to the person who made the request, with a copy to the members of the commission. Each informal response shall:

(A) Set forth the facts and background information of the inquiry;

(B) Cite the relevant operative statutory section or sections and the language in such section or sections on which the response is based; and

(C) Refer to any relevant advisory opinions issued by the commission which relate to the inquiry.

The informal response shall be based on such information, the operative provisions of the cited statute, and the legislative history pertaining to such statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates. In addition, the informal response shall indicate whether the statute and any previous opinions are clear or unclear on the issue.

(6) If the person who requested the informal response conforms that person's behavior to the requirements of the informal response, then that person shall not be sanctioned if it is later determined that such informal response was not a correct response or incorrectly interpreted the statutory section or sections or commission advisory opinions on the issue.

(7) Any informal response shall be subject to review or modification by the commission. Any person who disputes the informal response given by the aforementioned staff employees shall have the right to request a formal advisory opinion from the commission.

SECTION 5. Tennessee Code Annotated, Section 3-6-308(a), is amended by deleting subdivision (4) and by substituting instead the following language:

(4) Issue, and publish, upon proper request from any employer or lobbyist or public official subject to the jurisdiction of the commission, advisory opinions concerning the requirements of this part. However, under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, informal or otherwise, except as provided in § 3-6-117 concerning the authority of a person performing staff duties as the executive director or an attorney to give informal responses in the manner described in such section;

SECTION 6. Tennessee Code Annotated, Section 3-6-308(a)(7), is amended by deleting the language "at least two percent (2%)" and by substituting instead the language "no more than four percent (4%)".

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it; provided that Section 1 shall apply from the 2009 registration year forward.

PASSED: May 21, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of June 2008



PHIL BREDESEN, GOVERNOR