



# **2009 ANNUAL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY**

**BUREAU OF ETHICS AND CAMPAIGN FINANCE  
TENNESSEE ETHICS COMMISSION  
404 JAMES ROBERTSON PARKWAY, SUITE 104  
NASHVILLE, TN 37243  
(615) 741-7959**

**[HTTP://WWW.TENNESSEE.GOV/SOS/TEC/](http://www.tennessee.gov/sos/tec/)**

## FOREWORD

The 2006 Extraordinary Session of the Tennessee General Assembly enacted in the Comprehensive Governmental Ethics Reform Act of 2006 (“Act”). The Act addressed, among other items, financial disclosure and other reporting requirements for lobbyists, employers of lobbyists, legislators, state and local elected officials, and candidates and appointees to such positions. Further, the Act prohibited activities such as certain campaign contributions and the offer and acceptance of certain gifts. The Act established an independent Tennessee Ethics Commission (“Commission”) to interpret and enforce the provisions of the Act.

The Act was passed to advance the public’s confidence in government by enhancing the integrity and transparency of state and local government. Under the Act, the Commission is required to deliver an Annual Report to the Governor, the General Assembly, and the public.

In 2009, a new entity was created in order to consolidate certain management and administrative functions of the Commission and the Registry of Election Finance (“Registry”), in order to save the taxpayers of Tennessee and the regulated entities several hundred thousand dollars per year. The new entity is called the Bureau of Ethics and Campaign Finance. Both the Commission and the Registry continue to exist, with no change in their respective jurisdictions, powers, duties and authority. There has been no weakening or dilution of either the Commission or the Registry, and both agencies remain as independent entities of state government.

This organizational structure has enabled the Commission to operate in a more efficient manner and save significant expense without undermining its effectiveness.

We, the Commissioners of the Tennessee Ethics Commission, look forward to working with the Governor, the General Assembly, state and local elected officials, lobbyists and their employers, and the public in carrying out the mandates of the Act and enhancing an ethical climate for state government.

R. Larry Brown, Chair  
Charles H. Farmer  
Nathaniel S. Goggans  
John K. King  
Linda Whitlow Knight  
Dianne Ferrell Neal

March 19, 2010

<b>Table of Contents</b>	
<b>Foreword from the Tennessee Ethics Commission</b>	<b>1</b>
<b>Table of Contents</b>	<b>2</b>
<b>Background of the Tennessee Ethics Commission</b>	<b>3</b>
<b>The Tennessee Ethics Commission</b>	<b>4</b>
<b>The Commission’s Website</b>	<b>4</b>
<b>Lobbyists and Employers of Lobbyists</b>	<b>5</b>
<b>Training and Education</b>	<b>10</b>
<b>Disclosure of Interests Statements</b>	<b>11</b>
<b>Advisory Opinions, Informal Responses and Rules</b>	<b>13</b>
<b>Enforcement</b>	<b>14</b>
<b>Recommendations for Legislative Changes</b>	<b>14</b>

## **BACKGROUND OF THE TENNESSEE ETHICS COMMISSION**

The Tennessee Ethics Commission was created with the passage of the *Comprehensive Governmental Ethics Reform Act of 2006*, signed into law by Governor Bredesen on February 15, 2006. The Commission's jurisdiction was effective October 1, 2006. Among its many mandates, the Commission has the responsibility to:

- Promulgate rules and regulations (pursuant to the Uniform Administrative Procedures Act) to implement the provisions of the Act;
- Recommend "Guiding Principles of Ethical Conduct" for the General Assembly, the executive agencies, lobbyists, and employers of lobbyists;
- Receive complaints and conduct investigations, in conjunction with the Tennessee Attorney General's office;
- Compel the attendance of witnesses and the production of documents as needed to conduct its investigations;
- Conduct an annual ethics course for supervisory personnel of the Executive Branch, the General Assembly, and lobbyists;
- Provide an ethics manual for lobbyists and employers of lobbyists with the employer of the lobbyist, on its initial Lobbyist Registration Statement, being required to verify receipt of the manual;
- Collect and disseminate Disclosure of Interests Statements for the General Assembly, Governor, Governor's Cabinet, the Constitutional Officers, other state officials, local elected officials and candidates and appointees to such positions;
- Provide public access to the documents and forms filed with the Commission to the extent financially and technologically practical; and
- Provide an annual report to the Governor and the General Assembly by February 1st concerning the administration and enforcement of laws under the jurisdiction of the Commission, including the necessity, or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of the law.

The Bureau of Ethics and Campaign Finance was created in 2009 with the passage of Public Chapter 556. The Bureau is composed of two (2) divisions:

- The existing independent Tennessee Ethics Commission
- The existing independent Tennessee Registry of Election Finance

While Public Chapter 556 consolidated the staffs, office space and equipment of the two (2) agencies, the operating agencies remain separate and have the same responsibilities, powers, duties and functions as before.

## **THE TENNESSEE ETHICS COMMISSION**

The Commission is composed of six members: two appointed by the Governor; two appointed by the Speaker of the House of Representatives; and two appointed by the Speaker of the Senate. Each appointing authority must appoint one Republican and one Democrat. After initial staggered terms, members serve four-year terms and may serve two consecutive terms. Commission members are:

- R. Larry Brown, Chair (Memphis, Senate Speaker Appointee – Democrat representative) – Term expired December 31, 2009
- Nathaniel Goggans (Chattanooga, Senate Speaker Appointee – Republican representative) – Term expired December 31, 2009
- Charles H. Farmer (Jackson, Governor Appointee – Democrat representative) – Term expires December 31, 2012
- John K. King (Knoxville, Governor Appointee – Republican representative) – Term expires December 31, 2012
- Linda W. Knight (Nashville, House Speaker Appointee – Republican representative) – Term expires December 31, 2010
- Dianne F. Neal (Nashville, House Speaker Appointee – Democrat representative) – Term expires December 31, 2010

The Commission held eight (8) public meetings on the following dates in 2009:

- March 10
- April 6
- May 18
- June 3
- June 27
- August 20
- October 15
- November 30

## **THE COMMISSION'S WEBSITE**

The Commission, with the assistance of the Secretary of State's Office, continuously improves and expands the information available its website ([www.tn.gov/sos/tec](http://www.tn.gov/sos/tec)) to educate the public about the Commission and to be in compliance with the mandate. The website also provides news and other important information to the public and regulated communities; provides notice of Commission meetings and agenda; provides an on-line

tool for registering or filing electronically; and permits the public to view documents, registrations, reports and disclosure statements filed with or issued by the Commission.

In addition, the Commission maintains a separate e-mail address ([ethics.counsel@state.tn.us](mailto:ethics.counsel@state.tn.us)), which is routinely monitored, whereby any individual can pose a question to the Commission and receive a response.

## **LOBBYISTS AND EMPLOYERS OF LOBBYISTS**

### **1. REGISTRATION**

Lobbyists and employers of lobbyists are required to register, each calendar year, not later than seven (7) days after becoming a lobbyist/employer of lobbyist. A lobbyist must register for each employer that hires him or her, and employers must register for each lobbyist that they hire. Each lobbyist and employer is required to pay a \$150 registration fee for each registration within 30 days after registration. In addition, each lobbyist must pay an annual training fee of \$40 along with his or her first registration.

The registration process for both lobbyists and employers is completed on-line. The Commission maintains a website at <http://www.tennesseeanytime.org/ilobby/> where lobbyists/employers must complete the registration process. The information listed below is required at the time of registration.

Lobbyist registration information includes:

- His or her full contact information
- A current photographic portrait, which must be submitted to the Commission within thirty (30) calendar days after registration
- Identifying information concerning the lobbyist's employers;

Employer of Lobbyists registration information includes:

- The employer's name, address, telephone number and email address;
- The name and contact information of each lobbyist authorized to represent the employer; and
- Verification by the employer that it has downloaded the Manual for Lobbyists and Employers of Lobbyists from the Commission's website.

The \$150 registration fee, required for each registration, may be paid on-line at the time of registration by credit card, or it may be submitted within 30 days by check or money order. In addition, the training fee may be paid at the time of registration or submitted later.

In 2009, 518 lobbyists filed 1,598 registrations and 684 employers of lobbyists filed 1,532 registrations. Please note, the number of registrations filed by lobbyists and employer of lobbyists do not match because of an exemption from the registration requirements for some employers of lobbyists.

## **2. TRAINING**

An annual training course for lobbyists is required upon registration. The training is done electronically through the Commission's website. At the end of the course, there is a certificate of completion that the lobbyist is responsible for printing and sending to the Commission. The certificate can also be emailed to [ethics.counsel@state.tn.us](mailto:ethics.counsel@state.tn.us).

## **3. EMPLOYER DISCLOSURE REPORTS**

Each employer of a lobbyist is required to file an Employer Disclosure Report within 45 days after the end of each six-month reporting period. The reports cover the following periods:

- April 1 through September 30, due on November 14
- October 1 through March 31, due on May 15

The Employer Disclosure Reports are filed electronically through the Commission's website. The reports consist of three (3) parts:

- The aggregate total amount of compensation paid to lobbyists by the employer. The report is to be in monetary ranges from less than \$10,000 (including zero), to \$400,000 or more;
- The aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, excluding lobbyist compensation. (Expenditures related to lobbyist compensation must be disclosed in the first part of the report.) This portion of the report must also be filed in ranges from less than \$10,000 (including zero) to \$400,000 or more, in the same manner as Part 1 of the report; and
- The aggregate total amount of expenditures for events paid for by the employer to which the entire membership of the Tennessee General Assembly was invited.

The following information was assembled from the data on the May 15, 2009 Semi-Annual Lobbying Expenditure Reports reflecting employer expenditures for the six-month period ending **March 31, 2009**.

**TOTAL AGGREGATE LOBBYIST COMPENSATION  
10/01/08 – 03/31/09**

<b>RANGE</b>	<b># OF FILERS IN RANGE</b>	<b>LOW RANGE</b>	<b>HIGH RANGE</b>
< 10,000	334	0	3,340,000
10,000–25,000	225	2,250,000	5,625,000
25,000–50,000	117	2,925,000	5,850,000
50,000– 100,000	47	2,350,000	4,700,000
100,000–150,000	10	1,000,000	1,500,000
150,000–200,000	4	600,000	800,000
200,000-250,000	2	400,000	500,000
250,000-300,000	3	750,000	900,000
300,000-350,000	1	300,000	350,000
350,000-400,000	0	0	0
400,000 OR MORE	0	0	0
<b>TOTAL</b>	<b>743</b>	<b>\$10,575,000</b>	<b>\$23,565,000</b>

**LOBBYING RELATED EXPENDITURES  
10/01/08 – 03/31/09**

<b>RANGE</b>	<b># OF FILERS IN RANGE</b>	<b>LOW RANGE</b>	<b>HIGH RANGE</b>
< 10,000	701	0	7,010,000
10,000–25,000	24	240,000	600,000
25,000–50,000	12	300,000	600,000
50,000– 100,000	2	100,000	200,000
100,000–150,000	1	100,000	150,000
150,000–200,000	2	300,000	400,000
200,000-250,000	1	200,000	250,000
250,000-300,000	0	0	0
300,000-350,000	0	0	0
350,000-400,000	0	0	0
400,000 OR MORE	0	0	0
<b>TOTAL</b>	<b>743</b>	<b>\$1,240,000</b>	<b>\$9,210,000</b>

The following information was assembled from the data on the May 15, 2009 Semi-Annual Lobbying Expenditure Reports reflecting employer expenditures for the six-month period ending **September 30, 2009**.

**TOTAL AGGREGATE LOBBYIST COMPENSATION  
04/01/09 – 09/30/09**

<b>RANGE</b>	<b># OF FILERS IN RANGE</b>	<b>LOW RANGE</b>	<b>HIGH RANGE</b>
< 10,000	288	0	2,880,000
10,000–25,000	228	2,280,000	5,700,000
25,000–50,000	113	2,825,000	5,650,000
50,000– 100,000	41	2,050,000	4,100,000
100,000–150,000	14	1,400,000	2,100,000
150,000–200,000	7	1,050,000	1,400,000
200,000-250,000	3	600,000	750,000
250,000-300,000	1	250,000	300,000
300,000-350,000	1	300,000	350,000
350,000-400,000	0	0	0
400,000 OR MORE	0	0	0
<b>TOTAL</b>	<b>696</b>	<b>\$10,755,000</b>	<b>\$23,230,000</b>

**LOBBYING RELATED EXPENDITURES  
04/01/09 – 09/30/09**

<b>RANGE</b>	<b># OF FILERS IN RANGE</b>	<b>LOW RANGE</b>	<b>HIGH RANGE</b>
< 10,000	651	0	6,510,000
10,000–25,000	30	300,000	750,000
25,000–50,000	9	225,000	450,000
50,000– 100,000	3	150,000	300,000
100,000–150,000	1	100,000	150,000
150,000–200,000	0	0	0
200,000-250,000	0	0	0
250,000-300,000	2	500,000	600,000
300,000-350,000	0	0	0
350,000-400,000	0	0	0
400,000 OR MORE	0	0	0
<b>TOTAL</b>	<b>696</b>	<b>\$1,275,000</b>	<b>\$8,760,000</b>

#### **4. AUDITING ACTIVITIES**

It is the duty of the Commission to conduct audits each year of no more than 4% of all lobbyists. The overall objective of the audit is to determine whether the statements, amendments, and reports filed concerning the lobbyist in the audit year and the preceding year were timely, accurate, complete, and otherwise in compliance with the Act. Reports subject to audit include cost reports on all-Legislature in-state events in which the lobbyist participated, as well as reports on lobbyist compensation filed by the lobbyist's employer(s). Finally, the Act specifically provides that total lobbying and lobbying related compensation and expenses paid to the lobbyist by an employer are to be checked against the range of expenditures reported by the employer.

The following lobbyists were randomly selected for the 2009 audit of lobbyists by the Tennessee Ethics Commission at the May 18, 2009 meeting:

Dale Allen	Claude Presnell
James William Brown	Roxanne Reilly
Lindsay Craig	Marissa Richmond
Eddie Davidson	Holly Salmons
John Farris	Stephen Smith
Jack Fosbinder	Jim Spears
Leslie Hafner	Jeff Van Dyke
Herbert Hilliard	Alan West
Steve Mitchell	Thomas Williams
Margaret Morrison	

#### **5. IN-STATE EVENTS**

Pursuant to T.C.A. § 3-6-305, one exception to the gift prohibition is for in-state events sponsored by lobbyists or employers of lobbyists for which invitations are extended to all members of the General Assembly, provided that the Commission receives a copy of the invitation at least seven days prior to the event and that the sponsor reports within 30 days following the event that the cost was less than \$53 per person. The Commission posted all such invitations and reports that it received on the Commission website. For 2009, the total cost of in-state events was approximately \$484,886.24.

#### **6. INCREASE IN GIFT THRESHOLD AMOUNT**

Pursuant to T.C.A. § 3-6-305, the gift limitation shall be increased to the nearest dollar amount to reflect the percentage change in the average consumer price index ("CPI") as published by the United States Department of Labor every odd year. In 2009, the gift limitation was increased to \$53, versus \$50 in the Act as originally passed.

## **7. PUBLIC INFORMATION**

In addition to receiving information from lobbyists and employers of lobbyists, the Commission makes as much information available to the public as possible concerning lobbyists and employers of lobbyists. Under “Public Searches” at <http://www.tn.gov/sos/tec/> any person may search for information on lobbyists and employers. The public may search by lobbyist name, employer name or subject matter. In addition to all registration information being available for both lobbyists and employers, Employer Disclosure Reports are also available through the search site.

### **TRAINING AND EDUCATION**

Pursuant to the Act, the Commission must conduct various ethics training for members of the General Assembly, certain state officials, and lobbyists. In addition, and in furtherance of its public mission, the Commission is obligated to conduct education programs and outreach whenever possible.

The members of the General Assembly must attend an annual ethics training class “when the Legislature is in session.” Separate ethics training classes were conducted for the House of Representatives and Senate.

By February 1<sup>st</sup> of each year, all executive agencies must provide the Commission a list of their senior managers required to take ethics training. In 2009, the training was conducted on-line. Each agency is then required to notify the Commission that the training has been completed by the required staff. The following is a list of the agencies that were required to have senior managers take on-line ethics training:

- Bureau of TennCare
- Department of Agriculture
- Department of Children's Services
- Department of Commerce and Insurance
- Department of Corrections
- Department of Economic & Community Development
- Department of Education
- Department of Environment & Conservation
- Department of Finance & Administration
- Department of Financial Institutions
- Department of General Services
- Department of Health
- Department of Human Resources
- Department of Human Services
- Department of Military

- Department of Revenue
- Department of Safety
- Department of Tourist Development
- Department of Transportation
- Department of Veterans Affairs
- Dept. of Labor & Workforce Development
- Dept. of Mental Health & Developmental Disabilities
- Office of the Governor
- State Board of Education
- Tennessee Arts Commission
- Tennessee Corrections Institute
- Tennessee Higher Education Commission
- Tennessee Regulatory Authority
- Tennessee Student Assistant Corporation
- TN Advisory Commission on Intergovernmental Relations
- TN Alcoholic Beverage Commission
- TN Board of Probation and Parole
- TN Bureau of Investigation
- TN Commission on Aging & Disability
- TN Commission on Children and Youth
- TN Health Services & Development Agency
- TN Housing Development Agency
- TN Human Rights Commission
- TN Wildlife Resources Agency
- TRICOR

#### **DISCLOSURE OF INTERESTS STATEMENTS**

State and local candidates and officeholders are required to file Disclosure of Interests Statements with the Commission. All Disclosure of Interest Statements, whether they are filed on-line or on paper, are available for viewing on-line by going to [www.tn.gov/sos/tec](http://www.tn.gov/sos/tec) and clicking “Public Officials & Candidates” under Public Searches.

**1. MEMBERS OF THE GENERAL ASSEMBLY, GOVERNOR, GOVERNOR’S CABINET, CONSTITUTIONAL OFFICERS, AND CANDIDATES AND APPOINTEES TO THOSE POSITIONS**

This group was required to file a Disclosure of Interests Statement no later than April 15, 2009. All required 160 Statements were timely received by the Commission. By law, these disclosure statements must be posted on the Commission’s website.

**2. OTHER STATE OFFICIALS**

219 state officials were required to file a Disclosure of Interests Statement with the Commission no later than January 31, 2009. This group includes Justices of the Tennessee Supreme Court, Judges of the Court of Appeals and Court of Criminal Appeals, the Attorney General, District Attorneys, Public Defenders, the President of the University of Tennessee, Chancellors of the University of Tennessee campuses, the Chancellor of the Board of Regents, Presidents of the colleges and universities administered by the Board of Regents, members of the Board of Probation and Parole, the Alcoholic Beverage Commission, the Registry of Election Finance, the State Election Commission, the Tennessee Ethics Commission, and the State Election Coordinator.

**3. LOCAL OFFICIALS**

Pursuant to the Act, all local elected officials were required to file a Disclosure of Interests Statement no later than January 31, 2009. The Commission works closely with the state’s 95 County Election Commission offices to obtain names and addresses of the local officeholders. Due to the volume of local officeholders the process of obtaining this information is a difficult task. In 2009, 7,341 local officials filed Disclosure of Interests Statements with the Commission.

**4. STATE AND LOCAL CANDIDATES AND APPOINTEES**

State candidates that were not required to file Disclosure of Interests Statements by April 15, 2009 and local candidates that were not required to file Disclosure of Interests Statements by January 31, 2009 were required to file their Disclosure of Interests Statements within 30 days after the last day to qualify for election to the office they are seeking. Appointees to a state and local elected office must file their Statements within 30 days after the date of their appointment. In 2009, state and local candidates and appointees filed 529 Disclosure of Interests Statements with the Commission.

Again, the Commission works closely with the County Election Commission offices and the Secretary of State’s Election Division to obtain the names and addresses of candidates and appointees to state and local offices. Due to the fact that elections and appointments take place throughout the year, it is a constant task to maintain accurate information for all state and local candidates and appointees.

The consolidation of the staffs of the Commission and Registry into the Bureau will make the task of working with the County Election Commissions, state and local officials and state and local candidates much easier in the future. The Bureau now offers a “one stop shop” for Disclosure of Interests Statements and Campaign Financial Disclosure Reports, making reporting and dissemination of necessary information, forms and instructions much easier for all the parties involved.

**ADVISORY OPINIONS, INFORMAL RESPONSES AND RULES**

**1. FORMAL ADVISORY OPINIONS**

In 2009, the Commission issued the following advisory opinion:

Advisory Opinion 09-01	Whether Housing Industry PAC is controlled by an employer of a lobbyist and therefore prohibited from making campaign contributions to a gubernatorial candidate during legislative session pursuant to Tenn. Code. Ann. § 3-6-304(i).
------------------------	--

**2. INFORMAL RESPONSES**

The Commission’s legal counsel and Executive Director are authorized to issue informal responses to any person subject to the jurisdiction of the Commission. Since passage of the bill in 2008 allowing for the issuing of informal responses, the Commission has issued 178 informal responses.

**3. ADMINISTRATIVE RULES**

The Commission is authorized to adopt administrative rules to implement the Act, following the procedures set forth in the Uniform Administrative Procedures Act. Generally speaking, the procedure is that the Commission approves a draft rule, sends it to the Attorney General and Reporter for review, considers any changes suggested by the Attorney General’s Office, and approves the proposed rule in final form, after which the Secretary of State’s Office publishes the proposed rule for public comment. Since the creation of the Bureau, the Bureau must approve the initial draft of a proposed rule after its approval by the Commission or the Registry, respectively, and before its review by the Attorney General’s Office.

The Commission approved two sets of rules in 2009 before the amendment that created the Bureau. These draft rules were sent to the State Attorney General for review and are awaiting the Attorney General’s comments, if any:

- 0580-01-03 Complaint Proceedings
- 0580-01-04 Penalty Assessment Procedures for Late Filing and Failure to File Pursuant to T.C.A. 3-6-205

In addition, the Commission approved draft Rules 0580-01-06, Rules Pertaining to Filing Disclosure of Interests Statements. Those draft rules must be approved by the Bureau before being finalized.

## **ENFORCEMENT**

### **1. ENFORCEMENT ACTIONS**

During 2009, the Commission imposed civil penalties (Class 1 and Class 2), pursuant to T.C.A. § 3-6-205, against fourteen (14) local elected officials, totaling \$46,625, for failure to timely file Disclosure of Interests Statements. In addition, two (2) civil penalties totaling \$1,275 were assessed against Employers of Lobbyists pursuant to T.C.A. § 3-6-306

Of the sixteen (16) penalties assessed, three (3) penalties totaling \$950 were paid in 2009. Nine (9) of the civil penalties assessed in 2009 have become final and the assessments remain unpaid. These cases have been referred to the Attorney General for collection. Reconsiderations have been requested in the remaining four (4) cases.

### **2. COMPLAINTS**

The commission received twelve (12) complaints in 2009. Pursuant to the Act, none of these complaints are public record.

## **RECOMMENDATIONS FOR LEGISLATIVE CHANGES**

Due to the recent consolidation of the staffs of the Tennessee Ethics Commission and Tennessee Registry of Election Finance, the Commission is making no recommendations for legislative changes at this time.