

HOUSE BILL 182

By Whitson

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 10, Part 1; Title 3, Chapter 6, Part 1 and Title 8, Chapter 17, Part 1, relative to the Tennessee ethics commission.

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

SECTION 1. Tennessee Code Annotated, Section 2-10-125, is amended by deleting the language "Such form shall be updated quarterly. The dates for filing the quarterly reports shall be determined by the Tennessee ethics commission." in subsection (b); and by deleting subsection (e) and substituting:

(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 or to a political campaign committee attempting to influence the result of a state election, the person or entity shall make the disclosures required under subdivisions (a)(1)-(5) with respect to the campaign services provided.

SECTION 2. Tennessee Code Annotated, Section 2-10-126, is amended by deleting the language "Such form shall be updated quarterly. The dates for filing the quarterly reports shall be determined by the Tennessee ethics commission." in subsection (c); and by deleting subsection (e) and substituting instead:

(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 political campaign committee attempting to influence the result of 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.

SECTION 3. Tennessee Code Annotated, Section 3-6-106(a)(9), is amended by deleting the language "February 1" and substituting instead "July 1".

SECTION 4. Tennessee Code Annotated, Section 3-6-117, is amended by deleting the section and substituting instead:

(a) The commission is the only entity authorized to issue formal advisory opinions on matters related to this chapter, § 2-10-115, §§ 2-10-224 – 2-10-232, and title 8, chapter 50, part 5; provided, that the commission may request an opinion from the attorney general and reporter on legal issues that may be presented in a request for a formal advisory opinion. With respect to an issue addressed in a formal advisory opinion, a person who conforms that person's behavior to the requirements of the advisory opinion must not be sanctioned if it is later determined that the advisory opinion did not correctly interpret state law. A person who requests an advisory opinion may 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 (b), a person performing staff duties as an employee of the commission shall not issue an advisory opinion under subsection (a), including an informal response.

(2) A person performing staff duties as the executive director, assistant executive director, or as an attorney may give informal advisory opinions to a person subject to the jurisdiction of the commission in accordance with this subsection (b). The executive director shall approve all such informal opinions issued under this subsection (b).

(3) An informal opinion must be based on such information, the operative provisions of the cited statute, and the legislative history and intent pertaining to the statutory provisions, as evidenced by legislative committee and floor actions, discussions, and debates. In addition, the informal opinion must indicate whether a statute or a previous opinion is clear or unclear on the issue. An informal advisory opinion may be given verbally or in writing by either regular mail or electronic mail, but a verbal advisory opinion must be verified in writing by either regular mail or electronic mail in order to receive the consideration provided in subdivision (b)(4).

(4) If the person who requested the informal advisory opinion conforms the person's behavior to the requirements of the informal opinion, then the person must not be sanctioned if it is later determined that the informal opinion was not a correct response or incorrectly interpreted state law or previous commission advisory opinions on the issue.

(5) The commission shall make and keep records of all written inquiries and all written informal advisory opinions given, including the name of the person or entity making the inquiry, as applicable; on behalf of whom the inquiry was made; the date of the inquiry; the person responding to the inquiry; the precise inquiry, including the facts and background information provided; the section or sections of statute involved; and the answer or response given.

(6) An informal response is subject to review or modification by the commission. A person who disputes the informal advisory opinion given by a staff employee in subdivision (b)(2) may request a formal advisory opinion from the commission.

SECTION 5. Tennessee Code Annotated, Section 8-17-104, is amended by designating the existing language as subsection (a) and adding the following new subsections:

(b) By no later than January 1, 2024, each entity covered by this chapter shall notify the ethics commission, either in writing or electronically by email, of the primary person responsible for administering and enforcing the entity's ethical standards. The entity also shall provide the commission with the person's contact information, including the person's business address, phone number, and email address. The entity shall notify the commission of any change in such responsibility within thirty (30) calendar days of such change and shall provide the name and contact information for an interim official serving in this capacity until such time as a permanent successor can be identified.

(c) By no later than January 31, 2024, and on each January 31 thereafter, the commission shall notify the speaker of the house of representatives and the speaker of the senate, as well as the comptroller of the treasury, of each entity that is not in compliance with this part.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it.