

HOUSE BILL 2385

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 65,  
relative to the Tennessee Regulatory Authority.

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

SECTION 1. Tennessee Code Annotated, Section 65- 1-101, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) There is created the Tennessee regulatory authority consisting of five (5) part-time directors. The directors shall be appointed as follows: one (1) director shall be appointed by the governor, one (1) director shall be appointed by the speaker of the senate, one (1) director shall be appointed by the speaker of the house of representatives, and two (2) directors shall be appointed by joint agreement among the governor, the speaker of the senate and the speaker of the house. In making the appointments pursuant to subsection (a), the governor, the speaker of the senate and the speaker of the house of representatives shall strive to ensure that the Tennessee regulatory authority is composed of directors who are diverse in professional or educational background, ethnicity, geographic residency, perspective and experience.

(b) Each director of the authority must have a bachelor's degree and have either experience in one or more of the industries regulated by the authority, executive level management experience, or experience that qualifies the director, in the judgment of the appointing authority, to efficiently and effectively administer the functions of the authority.

(c) The directors of the authority shall be state officers and, except for the staggered terms provided in subsection (h), shall serve six-year terms.

(d) The governor, the speaker of the senate, and the speaker of the house shall make appointments by April 1 prior to the expiration of the terms of office of the

directors, except the two (2) jointly appointed directors whose terms commence on July 1, 2012 shall be appointed and confirmed by joint resolution adopted by each house of the general assembly prior to the commencement of their terms.

(e) The term of office of each director shall commence on July 1, following such director's appointment.

(f) All appointments of the directors shall be confirmed by joint resolution adopted by each house of the general assembly within thirty (30) days after the appointment.

(g) Any vacancy on the authority shall be filled by the original appointing authority for such position to serve the unexpired term and each appointment shall be confirmed in the same manner as the original appointment. If, however, the general assembly is not in session and a vacancy occurs, the appropriate appointing authority shall fill such vacancy by appointment and the appointee shall serve the unexpired term, unless the appointment is not confirmed within thirty (30) days after the general assembly convenes following the appointment to fill such vacancy.

(h) The terms of current directors appointed during 2008 and directors appointed during 2012 shall be staggered and shall expire as follows:

(1) The terms of the existing directors appointed by the speaker of the house and the speaker of the senate shall expire on June 30, 2014.

(2) The term of the existing director appointed by the Governor shall expire on June 30, 2017.

(3) The terms of the joint directors commencing on July 1, 2012, shall expire on June 30, 2018.

(i) A director shall continue to serve until his or her successor is appointed.

SECTION 2. Tennessee Code Annotated, Section 65-1-103, is amended by deleting subsection (a) and substituting instead the following:

(a) The directors shall convene regular monthly meetings and shall remain in session until all business before them is disposed of, and shall hold other sessions at such times and places as may be necessary for the proper discharge of their duties. If the business of the authority does not require a monthly meeting, a majority of the directors may waive the requirement of a meeting.

SECTION 3. Tennessee Code Annotated, Section 65-1-104, is amended by deleting subsection (a) and substituting instead the following:

(a) A majority of the directors of Tennessee regulatory authority shall constitute a quorum for the transaction of business. The authority shall elect one (1) of its directors to be the chair of the authority for a two-year term and shall elect (1) of its directors to be the vice-chair of the authority for a two-year term. The vice-chair shall assume the role of chair at the expiration of the chair's two-year term.

SECTION 4. Tennessee Code Annotated, Section 65- 1-104, is amended by deleting subsection (b) and substituting instead the following:

(b) The chair and vice-chair of the authority may be removed by a majority vote of the disinterested directors.

SECTION 5. Tennessee Code Annotated, Section 65-1-104, is amended by deleting subsection (c) and substituting instead the following:

(c) The chair shall have the primary responsibility of formulating the broad strategies, goals, objectives, long-range plans and policies of the authority, in conjunction with the directors. The chair shall also have the power and duty to conduct ordinary and necessary business in the name of the authority. Such duties include, but are not limited to, the following:

- (1) Giving notice of, and agendas for, all meetings of the authority to all directors in advance of the meeting;
- (2) Assigning matters to be heard by panels in accordance with Section 65-1-104;
- (3) Preparing and calling the docket items to be heard during each scheduled meeting of the authority;
- (4) Keeping the official, full and correct record of all proceedings and transactions of the authority;
- (5) Serving as the designated contact for all media inquiries to the authority;
- (6) Ensuring that orders by the authority are issued in a timely manner and in accordance with the rules and procedures established by the executive director;
- (7) Conducting a yearly performance evaluation of the executive director, which shall be submitted to the governor;
- (8) Delegating duties of the chair to the vice-chair; and
- (9) Performing such other duties as the authority may assign or as may be required by statute, rule or regulation.

SECTION 6. Tennessee Code Annotated, Section 65-1-104, is further amended by deleting subsection (d) in its entirety and substituting instead the following:

(d) The chair shall assign each matter before the authority to a panel of three (3) voting members, from among the directors. The remaining two voting members of the authority, who are not assigned to a particular panel, shall not vote or deliberate regarding such matters. The authority shall establish reasonable procedures for rotating the directors for assignments to panels in an efficient manner. Such procedures shall

ensure that all voting members of the authority serve on a substantially equal number of panels in a random fashion, to the extent practicable.

SECTION 7. Tennessee Code Annotated, Section 65-1-105, shall be amended by deleting subsection (a) and substituting instead the following:

(a) The compensation of each director of the Tennessee regulatory authority shall be \$36,000.00 per year payable monthly out of the state treasury on the warrant of the commissioner of finance and administration. When directors are assigned to serve on the panel of a matter lasting more than one (1) day, the director shall be compensated \$140.00 for each day, or portion of a day, following the first day, for the duration of the matter.

SECTION 8. Tennessee Code Annotated, Section 65-1-105, shall be further amended by deleting the language "four (4)" and inserting the language "five (5)" at the beginning of subsection (b).

SECTION 9. Tennessee Code Annotated, Section 65-1-1, shall be amended by adding the following new section to be designated as Section 65-1-109:

(a) The governor shall appoint an executive director of the authority, who shall serve for a three-year term at the pleasure of the Governor. The executive director shall not be a director of the authority. The Governor has the authority to remove the executive director.

(b) The authority may remove the executive director by a majority vote of the directors.

(c) The executive director shall have the principal responsibility of implementing the broad strategies, goals, objectives, long-range plans and policies of the authority. Among the executive director's duties, which are not limited to the following list, are:

(1) Serving as chief operating officer of the authority responsible for the day to day management of the authority and the supervision and hiring of all staff members within the limits of available funds authorized from time to time by the legislature;

(2) Administering, monitoring, and reviewing the operating procedures of each division of the authority, ensuring that each employee and division of the authority fully executes in an efficient and economical manner, the separate duties assigned to each;

(3) Submitting rules and policies for approval by the authority;

(4) Implementing and administering rules and policies for the efficient and economical internal management of the authority;

(5) Coordinating the preparation of the report to the general assembly as required by Section 65-1-111;

(6) Supervising the expenditure of funds and being responsible for complying with all applicable provisions of state and federal law in the receipt and disbursement of funds; and

(7) Performing such other duties as the authority may require, from time to time, or as may be required by statute.

SECTION 10. Tennessee Code Annotated, Section 65-1-111, shall be amended by adding the language “and to the Governor” between the words “assembly” and “of”.

SECTION 11. This Act shall take effect on July 1, 2011, the public welfare requiring it.