

SENATE BILL 587

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 5, relative to administrative procedure.

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

SECTION 1. Tennessee Code Annotated, Section 4-5-201(c), is amended by deleting "proposed rule" and substituting instead "rule to be proposed".

SECTION 2. Tennessee Code Annotated, Section 4-5-202(a), is amended by deleting subdivision (2) and substituting instead the following:

(2)

(A) A direct informal rule is published to the administrative register website, within the secretary of state's website within seven (7) days of receipt, together with a statement that the agency will adopt the direct informal rule without a public hearing unless within ninety (90) days after filing of the direct informal rule with the secretary of state, a petition for a public hearing on the direct informal rule is filed by ten (10) persons who will be affected by the rule, an association of ten (10) or more members, a municipality, or by a majority vote of any standing committee of the general assembly. If an agency receives the petition, the agency shall not proceed with the direct informal rule until the agency has given notice and held a hearing as provided in this section. The agency shall forward the petition to the secretary of state. The secretary of state is not required to compile all filings of the preceding month into one (1) document. As used in this section, "direct informal rule" means an administrative rule that makes minor, nonsubstantive modifications to an existing rule or that

adds minor, nonsubstantive provisions as part of a new rule, including, but not limited to, clerical updates;

(B)

(i) An agency shall not promulgate a rule as a direct informal rule

that:

(a) May affect the rights of persons;

(b) May mandate conduct or impose fees, penalties, or fines; or

(c) A reasonable person might otherwise deem to be significant;

(ii) An agency may only promulgate a rule as a direct informal rule

when the rule:

(a) Involves a minor, nonsubstantive modification, including, but not limited to, clerical updates;

(b) Is approved by the joint government operations committee of the house of representatives and the senate pursuant to subdivision (a)(2)(B)(iii);

(c) Repeals a rule; or

(d) Eliminates or reduces a fee;

(iii) An agency may petition the joint government operations committee of the house of representatives and the senate to authorize a rule to be a direct informal rule when the agency has given proper notice and held a public hearing pursuant to this part, but the rule is withdrawn to make nonsubstantive modifications to the rule prior to the review of the rule by the joint government operations committee.

SECTION 3. Tennessee Code Annotated, Section 4-5-202(c), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 4. Tennessee Code Annotated, Section 4-5-203(a)(2), is amended by deleting "proposed rulemaking" and substituting instead "rule being proposed".

SECTION 5. Tennessee Code Annotated, Section 4-5-203(c)(2)(A), is amended by deleting "proposed rule" wherever it appears and substituting instead "rule being proposed".

SECTION 6. Tennessee Code Annotated, Section 4-5-203(d), is amended by deleting "proposed rulemaking" and substituting instead "a rule being proposed".

SECTION 7. Tennessee Code Annotated, Section 4-5-204(c)(1), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 8. Tennessee Code Annotated, Section 4-5-205(a), is amended by deleting "proposed rules" and substituting instead "rules being proposed".

SECTION 9. Tennessee Code Annotated, Section 4-5-222(a)(1)(C), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 10. Tennessee Code Annotated, Section 4-5-226(b)(2), is amended by deleting the first sentence of the subdivision and substituting instead the following:

Rules promulgated by a department or agency of state government whose functions, duties, or responsibilities are transferred to another department or agency remain in full force and effect, and thereafter are administered and enforced by the agency or department assuming responsibility for those functions, duties, or responsibilities as rules of that agency or department, and all rules pending with the attorney general and reporter or secretary of state, unless withdrawn, must continue that status as rules being proposed until becoming effective as rules of the agency assuming the functions, duties, or responsibilities.

SECTION 11. Tennessee Code Annotated, Section 4-5-226(i)(1)(I), is amended by deleting "rule proposed" and substituting instead "rule being proposed".

SECTION 12. Tennessee Code Annotated, Section 4-5-402(a), is amended by deleting "of whether a proposed rule or rule" and substituting instead "as to if a rule".

SECTION 13. Tennessee Code Annotated, Section 4-5-402(b), is amended by deleting "of the proposed rule" and substituting instead "the rule being proposed may have".

SECTION 14. Tennessee Code Annotated, Section 4-5-402(b)(6), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 15. Tennessee Code Annotated, Section 4-5-403, is amended by deleting "proposed rule" wherever it appears and substituting instead "rule being proposed".

SECTION 16. The department of state shall promulgate rules, when necessary, to effectuate the purposes of this act.

SECTION 17. Tennessee Code Annotated, Section 4-5-216, is amended by designating the existing language as subsection (a) and adding the following as a new subsection:

(b) A person affected or potentially affected by a rule may file suit directly to the chancery court in the county where the person resides to enjoin enforcement of a rule when the rule is not adopted in compliance with this chapter.

SECTION 18. This act takes effect July 1, 2021, the public welfare requiring it.