

PUBLIC CHAPTER NO. 1156**HOUSE BILL NO. 3278****By Representatives Maddox, Curtis Johnson, Yokley, Ulysses Jones****Substituted for: Senate Bill No. 3530****By Senators Herron, Bunch, Ford**

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 2, relative to school support organizations.

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

SECTION 1. Tennessee Code Annotated, Section 49-2-603(3)(A)(ii), is amended by deleting subdivision (e) in its entirety and substituting instead the following:

(e) Any individual who works for the school system and who as part of the individual's employment by the school system is charged with directing or assisting in directing the related school club or activity;

SECTION 2. Tennessee Code Annotated, Section 49-2-603(4), is amended by deleting subdivision (B) in its entirety and substituting instead the following:

(B) For the purposes of this part, a group of persons who merely request that students, parents, or members of the general public make donations to a school district, school, school club, or academic, arts, athletic, or social activity related to a school or assist in the raising of funds for a specified purpose under the sponsorship of a school employee where the funds are turned over to the school to be used for the specific purpose for which the funds were raised, shall not be considered a school support organization;

SECTION 3. Tennessee Code Annotated, Section 49-2-603(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

(6) "Student activity funds" include all money received from any source for school-sponsored student activities or school-sponsored events held at or in connection with a school, and specifically include, but are not limited to, any money:

(A) Derived from a school-sponsored academic, art, athletic, or social event involving students;

(B) Raised by school-sponsored clubs involving students;

(C) Raised by school-sponsored fundraisers involving students who are under the supervision of a school employee;

(D) Received from a commission for the direct sale of items to students pursuant to a cooperative agreement between the school and an outside organization;

(E) Received for the direct sale of items to students from a school-run bookstore located on school grounds;

(F) Raised from fees charged students;

(G) Obtained from interest from any account that contains student activity funds; or

(H)

(i) Obtained from any related school-sponsored activity that involves the use of school personnel, students, and property during the school day;

(ii) For the purpose of subdivision (6)(H)(i), "school day" means the regular hours of operation of the school during which classes are conducted.

SECTION 4. Tennessee Code Annotated, Section 49-2-604, is amended by deleting the section in its entirety and substituting instead the following:

§ 49-2-604.

(a) A group or organization may not use a school district's or school's name, mascot or logos, property or facilities for the raising of money, materials, property or securities until a policy has been adopted by the local board of education concerning cooperative agreements, school support organizations, and the use of school facilities for fundraising purposes.

(b) The policy that a school board adopts pursuant to subsection (a) shall, at a minimum, include, in substance, the following provisions:

(1) Prior to soliciting, raising, or collecting money, materials, property or securities to support a school district, school, school club, or any academic, arts, athletic, or social activity or event related to a school, a school support organization shall submit to the director of schools or the director's designee a form that, at a minimum, documents the following:

(A) The organization's status as a nonprofit organization, foundation, or a chartered member of a nonprofit organization or foundation; provided, however, that nothing herein shall require that the organization be a 501(c)(3) organization under the Internal Revenue Code;

(B) The goals and objectives of the organization;
and

(C) The telephone number, address, and position
of each officer of the organization;

Thereafter, a school support organization shall annually, at a time designated before the beginning of the school year, submit a form to the director of schools or the director's designee verifying its continued existence as a nonprofit organization and documenting, at a minimum, the goals and objectives of the organization; and the current telephone number, address, and position of each officer of the organization. The organization shall file a statement of total revenues and disbursements before the end of the school year;

(2) The approval of the director of schools or the director's designee shall be required before a school support organization undertakes any fundraising activity to assure that scheduling of fundraisers does not conflict with the school district's or school's fundraising efforts and that the fundraising process is consistent with the goals and mission of the school or school district. Such approval shall not make such fundraising activity a school-sponsored activity.

(c) A school support organization shall maintain, at a minimum, detailed statements of receipts and disbursements, minutes of any meetings, a copy of its charter, bylaws and documentation of its recognition as a nonprofit organization. Such statements and records shall be maintained for a period of at least four (4) years and be available upon request by any member of the organization, principal, director of schools, or the director's designee, or the office of the comptroller of the treasury.

(d) A school support organization shall operate within the applicable standards and guidelines set by a related state association, if applicable, and shall not promote, encourage or acquiesce in any violation of student or team eligibility requirements, conduct codes or sportsmanship standards.

(e) A school support organization's officers shall ensure that school support organization funds are safeguarded and are spent only for purposes related to the goals and objectives of the organization. The organization shall adopt and maintain a written policy that specifies reasonable procedures for accounting, controlling and safeguarding any money, materials, property or securities collected or disbursed by it.

(f) A school support organization shall provide, upon request, to officials of the local school board, local school principal, or auditors of the office of the comptroller of the treasury access to all books, records, and bank account information for the organization.

(g) A school representative may not act as a treasurer or bookkeeper for a school support organization. A school representative may not be a signatory on the checks of a school support organization. A majority of the voting members of any school support organization board should not be composed of school representatives.

(h) A local board of education may adopt a policy that is more restrictive than the requirements of subsection (b).

(i) The local board of education, director of schools, local school principal or any other school official shall not incur any liability for the failure of a school support organization to safeguard school support organization funds.

SECTION 5. Tennessee Code Annotated, Section 49-2-605, is amended by deleting subsections (a) and (b) in their entireties and substituting instead the following:

(a) The director of schools or the director's designee shall annually post or publish a list of organizations that have complied with the provisions of § 49-2-604(b). This posting or publication may be made by written or electronic means. The school board shall determine the appropriate method of posting or publishing this information.

(b) Any local board of education is authorized to develop a process to certify that an organization has been recognized as a school support organization, however a local board of education shall not incur any liability for such recognition.

SECTION 6. Tennessee Code Annotated, Section 49-2-606, is amended by adding the following language as new subsections (d) and (e):

(d) A local board of education may grant the principal of a school the authority to enter into an agreement with a school support organization to operate a bookstore located on school grounds that makes direct sales of items to students where any money the school support organization collects or any portion designated by the agreement shall be considered as school support group funds and not as student activity funds; provided, that:

(1) The board has adopted a policy concerning school support organizations pursuant to § 49-2-604(b);

(2) One hundred percent (100%) of the profits of the operation of the bookstore are used for support of the school; and

(3) The school support organization provides the school with the relevant collection documentation that would have been required pursuant to the provisions of the manual produced under § 49-2-110 for student activity funds.

(e) A principal may allow funds raised by fundraisers conducted by a school support organization outside the school day and involving students to be collected during the school day by the school support organization. Such funds shall be school support organization funds; provided, that school employees are not involved in the accounting of such funds and the funds are turned in using sealed envelopes.

SECTION 7. Tennessee Code Annotated, Title 49, Chapter 2, Part 6, is amended by adding the following language as a new, appropriately designated section:

§49-2-611. Notwithstanding the provisions of §48-51-303(a)(1) to the contrary, a school support organization which is required to register as a nonprofit organization, foundation, or chartered member of a nonprofit organization or foundation by a policy adopted in accordance with this part shall be exempt from any initial registration fee by the secretary of state for such registration if such school support organization is an educational institution as defined in §48-101-502(b). Such school support organization shall pay any renewal fee required by the secretary of state to maintain valid annual registration as a nonprofit organization, foundation, or chartered member of a nonprofit organization or foundation.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. Sections 4 and 5 of this act shall take effect July 1, 2008, at 12:01 a.m., the public welfare requiring it. All remaining sections of this act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 21, 2008



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 13th day of June 2008



PHIL BREDESEN, GOVERNOR