

PUBLIC CHAPTER NO. 1135

SENATE BILL NO. 2616

By Kyle, McNally, Ketron

Substituted for: House Bill No. 2556

By Fitzhugh, Tindell

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 49; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71, relative to the functions of governmental entities.

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

SECTION 1. Tennessee Code Annotated, Section 49-3-351(a), is amended by adding the following as a new paragraph (4) in subsection (a):

(4) In fiscal year 2010-2011 and subsequent fiscal years, the cost per square foot calculation in the capital outlay component shall be reduced by fourteen dollars (\$14.00) per square foot for K-4 classrooms and by twelve dollars (\$12.00) per square foot for other classrooms, it being the legislative intent that the state share of the BEP formula in 2010-2011 and subsequent fiscal years not include growth in capital outlay that otherwise would have occurred in fiscal year 2010-2011. The provisions of this item shall not preclude the appropriation of non-recurring funds to the Basic Education Program for distribution to local education agencies through the BEP formula.

SECTION 2. Tennessee Code Annotated, Section 49-7-120, subsection (b), is amended by adding the following new language between the words "conducted by a public higher education institution" and "shall not be open for public inspection.":

, or in the course of fulfilling a grant agreement between a public higher education institution and the Tennessee Department of Economic and Community Development,

SECTION 3. Tennessee Code Annotated, Section 4-20-301, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) There is created and established a state commission to be known as the Douglas Henry State Museum Commission, referred to as "the commission" in this part, to consist of thirteen (13) voting members.

SECTION 4. Tennessee Code Annotated, Section 4-20-301, is further amended by adding the following language as new subsection (e) and by redesignating the existing subsection (e) and remaining subsections accordingly:

(e) One (1) member of the commission shall be the chair of the Senate Finance, Ways and Means Committee or the chair's designee. One (1) member of the commission shall be the chair of the House of Representatives Finance, Ways and Means Committee or the chair's designee.

SECTION 5. Tennessee Code Annotated, Section 8-25-303(a), is amended by designating the current language as subdivision "(1)" and by adding the following new language, to be designated as subdivision "(2)":

(2) Notwithstanding subdivision (1) or any other law to the contrary, for fiscal years beginning on July 1, 2010 and July 1, 2011, the state may provide for employer matching of contributions to the plan on behalf of eligible, participating state employees. The amount, if any, provided by the state for employer matching contributions shall be specifically prescribed in the General Appropriations Act each such year.

SECTION 6. If any provisions 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 this 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 7. Tennessee Code Annotated, Title 12, Chapter 3, Part 8, is amended by adding the following language as a new, appropriately designated section:

Section 12-3-8__.

(a) There is created the governor's office of diversity business enterprises to administer the provisions of this part. All positions, resources and functions of the governor's office of diversity business enterprises existing within the Department of General Services shall be transferred to the procurement office on October 1, 2011.

(b) The office of diversity business enterprises shall assist small businesses and businesses owned by minorities and women to develop into viable, successful businesses. This work shall include assisting these businesses to compete successfully for the State of Tennessee's expenditures for goods and services.

(c) Each state agency shall designate a staff person as a small business liaison representative to the governor's office of diversity business enterprises to coordinate the agency's efforts to utilize Tennessee small businesses and diversity business enterprises in their procurement and contracting opportunities.

SECTION 8. Tennessee Code Annotated, Section 12-3-802, is amended by deleting subdivision (6) in its entirety.

SECTION 9. Tennessee Code Annotated, Section 12-3-802, is amended by adding the following language as a new, appropriately designated subdivision:

() "Tennessee small business" means a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period and employs no more than thirty (30) persons on a full-time basis;

SECTION 10. Tennessee Code Annotated, Section 12-3-803, is amended by deleting the current language in its entirety and by substituting instead the following:

Section 12-3-803.

(a) The board of standards is authorized to adopt rules and regulations establishing criteria and standards for minority owned, woman owned and Tennessee small businesses that are eligible to be included under this part. Such rules and regulations shall include methods by which eligibility can be verified and the business deemed certified.

(b) Such criteria and standards for eligibility shall include, but not be limited to, the number of employees, the total gross receipts or annual sales volume, including ownership and control.

(c) The maximum number of employees and the maximum dollar value of a small business under such rules and regulations may vary from industry to industry to the extent necessary to reflect the differing characteristics of any relevant factors of each particular industry.

(d) The governor's office of diversity business enterprises shall implement and administer a certification program and publish a directory of businesses certified as Tennessee small businesses and diversity business enterprises.

(e) Any business desiring to be certified as a Tennessee small business or diversity business enterprise shall make application to the governor's office of diversity business enterprises on an application as prescribed by such office.

SECTION 11. After appointment of the chief procurement officer, such officer, in consultation with the Department of General Services and the Department of Economic and Community Development, shall study opportunities available to Tennessee small businesses and diversity business enterprises in state contracting and the potential effect of enhancing such opportunities through utilization of monetary allowances. It is the legislative intent that such study shall, insofar as possible, assess the impact on Tennessee small businesses and diversity business enterprises that would have occurred if monetary allowances of varying amounts had been available. Further, it is the legislative intent that such study shall estimate the costs to the state that would have resulted from such monetary allowances.

SECTION 12. The provisions of this section shall take effect on October 2, 2011, the public welfare requiring it. Tennessee Code Annotated, Title 4, Chapter 56, Part 1, as amended by Chapter ___ of the Public Acts of 2010 (House Bill No. 3353/Senate Bill No. 3598), is amended by deleting the following language:

§ 4-56-107. The comptroller of the treasury is authorized to examine and approve all procurements, contracts, grants and other documents that serve to incur financial obligations against state government. This authority to approve shall be developed in consultation with the chief procurement officer and set forth in procurement and contract policies, standards, rules, regulations, procedures and guidelines approved by the commission.

and by substituting instead the following new language:

§ 4-56-107. Without limitation of the audit authority of the comptroller of the treasury, the comptroller is authorized to examine any procurement contract, grant or other documents. Pursuant to procurement and contract policies, standards, rules, regulations, procedures and guidelines approved by the commission, the comptroller of the treasury is authorized to approve procurements, contracts, grants and other documents that serve to incur financial obligations against state government.

SECTION 13. The small business advocate within the office of the comptroller of the treasury shall be qualified by training or relevant and recent experience in administering programs to encourage and enhance economic opportunities for small, woman owned and minority owned businesses. At least annually, the advocate shall attend training or other specialized instruction to enhance understanding of the particular obstacles impeding woman owned and minority owned businesses from normal entry into the economic mainstream. Such training shall be provided by the governor's office of diversity business enterprises in the normal course of business as part of the regular training program for state agencies. When the advocate position is filled by reassigning a current employee, such employee shall receive the requisite training prior to assuming the advocate duties.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 9, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of June 2010



PHIL BREDESEN, GOVERNOR