

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 02-30-09  
Rule ID(s): 4132  
File Date: 2/27/2009  
Effective Date: ~~6/26/2009~~

A Notice of Withdrawal (05-18-09) was filed by the Ethics Commission on 05/21/2009. To view notice, [click here](#).

## Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-205 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

<b>Agency/Board/Commission:</b>	Tennessee Ethics Commission
<b>Division:</b>	
<b>Contact Person:</b>	Willow Perkins, Assistant Legal Counsel
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised**

Chapter Number	Chapter Title
0580-06	Rules Pertaining to Filing Disclosure of Interest Statements
Rule Number	Rule Title
0580-06-.01	Purpose and Scope
0580-06-.02	Definitions
0580-06-.03	General Filing Requirements
0580-06-.04	Electronic Filing
0580-06-.05	Timeliness of Filing

Chapter 0580-06  
Rules Pertaining to Filing Disclosure of Interest Statements

New Rules

0580-06-.01 Purpose and Scope.

The Tennessee Comprehensive Governmental Ethics Reform Act of 2006 requires the Commission to establish rules specifying the manner in which reports, statements, or other documents shall be filed, and that the Commission strive to establish electronic filing for all documents required to be filed with the Commission. The Act gives the Commission the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing. These rules are promulgated for the purpose of providing procedures for the filing of disclosure of interest statements by state and local office holders, candidates, and appointees, and to provide for electronic filing of these documents to the greatest extent permitted by law.

Authority: Tenn. Code Ann. §§ 3-6-105(a), 3-6-106(a)(2), (4), 3-6-107(1), 3-6-115(e), 8-50-501 through 8-50-505.

0580-06-.02 Definitions.

- (1) "Candidate." An individual who has made a formal announcement of candidacy or who is qualified under the law of this state to seek nomination for election or elections to public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about the individual's nomination for election or election to state or local public office.
- (2) "Commission." The Tennessee Ethics Commission
- (3) "Disclosure Statement." A disclosure of interest statement required to be filed pursuant to Tenn. Code Ann. §§ 2-10-115, or 8-50-501 through 8-50-505.
- (4) "Local Public Office." Any state, county, municipal, school or other district or precinct office or position, including judges and chancellors, filled by the voters, but not including the offices of governor, member of the general assembly, delegate to a Tennessee constitutional convention, district attorney general, district public defender, judge of the court of criminal appeals, judge of the court of appeals and supreme court judge.
- (5) "State Public Office." The offices of governor, member of the general assembly, delegate to a Tennessee constitutional convention, district attorney general, district public defender, judge of the court of criminal appeals, judge of the court of appeals and supreme court judge.

Authority: Tenn. Code Ann. §§ 2-10-102, 2-10-115, 3-6-103, 3-6-107(1), 8-50-501 through 8-50-505.

0580-06-.03 General Filing Requirements.

- (1) January 31 filings.
  - (a) Disclosure Statement. The following persons shall file with the Commission, no later than January 31 of each year, a Disclosure Statement or amended Disclosure Statement containing the information required by Tenn. Code Ann. § 8-50-502.
    - (i) Each member of the state election commission and the state election coordinator;
    - (ii) Members of the registry of election finance;
    - (iii) Each director of the Tennessee regulatory authority;
    - (iv) Each supreme court justice, each judge of the court of criminal appeals each judge of the court of appeals, and the administrative director of the courts;

- (v) Each delegate to a constitutional convention called to consider a new constitution or amendments to the Constitution of Tennessee;
  - (vi) The attorney general and reporter;
  - (vii) The district attorneys general and the executive director of the district attorneys general conference;
  - (viii) Public defenders for each judicial district;
  - (ix) Members of the board of probation and parole;
  - (x) Members and the executive director of the alcoholic beverage commission;
  - (xi) The chancellor of the board of regents and the president of each college or university governed by the board of regents, but not including the directors of Tennessee Technology Centers;
  - (xii) The president of the University of Tennessee and the chancellor of each separate branch or campus of the University of Tennessee;
  - (xiii) Members of the Commission; and
  - (xiv) Any local public office subject to election by the voters as defined in Tenn. Code Ann. § 2-10-102.
- (b) Amended Disclosure Statements and notices. Persons who have previously filed a Disclosure Statement and who continue to hold an office or employment which requires them to file a Disclosure Statement shall file, no later than January 31 of each and every year succeeding the initial filing, either an amended Disclosure Statement or a notice that such Candidate or appointee has had no change of condition because of the termination or acquisition of interests as to which disclosure is required; provided, however, that each delegate to a constitutional convention called to consider a new constitution or amendments to the Constitution of Tennessee shall file an amended Disclosure Statement, or the required notice, not later than fifteen (15) days after the date provided in the call for the convening of the constitutional convention.

(2) April 15 filings.

- (a) Disclosure Statement. The following persons shall file with the Commission, no later than April 15 of each year, a Disclosure Statement containing the information required by Tenn. Code Ann. §§ 2-10-115 or 2-10-128 and 8-50-502:
  - (i) The governor;
  - (ii) The secretary of state;
  - (iii) The comptroller of the treasury;
  - (iv) The treasurer;
  - (v) Members of the governor's cabinet;
  - (vi) Cabinet level staff;
  - (vii) Members of the general assembly; and
  - (viii) The spouses of such persons.

- (b) Amended Disclosure Statements and notices. Persons who have previously filed a Disclosure Statement and who continue to hold an office or employment which requires them to file a Disclosure Statement shall file, no later than April 15 of each and every year succeeding the initial filing, either an amended Disclosure Statement or a notice that such candidate or appointee has had no change of condition because of the termination or acquisition of interests as to which disclosure is required.
- (3) Other filings.
- (a) Candidate filings. A Candidate for an office in paragraphs (1) and (2) shall file a Disclosure Statement no later than thirty (30) days after the last day provided by law for qualifying as a Candidate; provided, however, that any Candidate running for re-election for an office the Candidate currently holds shall not be required to file a Disclosure Statement at that time so long as the Candidate timely files the Disclosure Statement, amended Disclosure Statement, or notice as required by paragraphs (1) or (2).
  - (b) Appointee filings. The appointing authority shall notify the Commission of an appointment to any of the offices listed in paragraphs (1) and (2) within three (3) days after the appointment. An appointee to any such offices shall file a Disclosure Statement within thirty (30) days after the date of appointment; provided, however, that an appointee who has been re-appointed to the office the appointee currently holds shall not be required to file a Disclosure Statement at that time so long as the appointee timely files the Disclosure Statement, amended Disclosure Statement, or notice as required by paragraphs (1) or (2).
- (4) A person required to file a Disclosure Statement shall have one (1) witness attest to the Disclosure Statement before filing it with the Commission. If the Disclosure Statement is filed by other than electronic means, the attesting witness shall sign the form before it is filed. The form need not be notarized before it is filed with the Commission.

Authority: Tenn. Code Ann. §§ 2-10-115, 3-6-105(a), 3-6-106(a), 3-6-107(1), 8-50-501 through 8-50-505.

0580-06-.04 Electronic Filing.

- (1) The Commission has established an internet-based electronic filing system available for use by all persons required to file Disclosure Statements, amended Disclosure Statements, and notices. Disclosure Statements, amended Disclosure Statements, and notices shall be filed electronically in the form prescribed by the Commission, unless an exemption applies.
- (2) The Executive Director or designee may refuse to accept for filing an electronic report containing a computer virus or other matter which could compromise the Commission's electronic filing system or other electronic resources. In the case of a refusal on this basis, the Executive Director or designee will notify the filer as soon as possible so that the problem may be remedied or an alternative method of filing may be attempted.
- (3) Exemptions:
  - (a) Local Officials. No Candidate or appointee to a Local Public Office, or person who retains such office after election or appointment, shall be required to file electronically or shall be required to request an exemption from the electronic filing requirement. Such persons may file electronically if they wish. Any such person who wishes to file a paper Disclosure Statement may do so by using a paper form provided by the Commission.
  - (b) State Officials. Any Candidate or appointee to a State Public Office, or person who retains such office after election or appointment, who is required to file a Disclosure Statement, amended Disclosure Statement, or notice under this rule, and who wishes to obtain an exemption from the electronic filing requirement must timely file a request for an exemption.
    - (i) Exemption request. A request for an exemption from the electronic filing requirement shall be filed, on a paper form to be provided by the Commission, no later than twenty-one (21) days before the date upon which the filing for which the exemption is

requested is due. The request should set forth particular facts and circumstances which demonstrate that compliance with the electronic filing requirement would impose an undue hardship on the filer.

- (ii) Determination on exemption request.
  - (A) Timely filed exemption requests shall be preliminarily reviewed by Commission staff. If the Commission staff determines that the electronic filing requirement would impose an undue hardship on the filer, the Commission shall grant the request and so notify the filer.
  - (B) If the Commission staff preliminarily determines that the circumstances set forth in a request for exemption do not constitute a hardship, the Commission staff shall notify the filer of that determination, and of the opportunity to seek review of that determination by the Commission upon filing a request for review within ten (10) days after the filer's receipt of the notice of denial. Any such request for review must be accompanied by all the information required for the filing in question, on a form to be provided by the Commission. The Commission staff shall notify the filer of the disposition of any such request for review.
  - (C) If a filer does not timely seek review of a Commission staff determination of no undue hardship, or if the Commission denies a filer's request for review, the filer shall file electronically at or before the time required by these rules.
- (iii) Effect of granting an exemption. The grant of a hardship exemption for one (1) filing does not apply to any other filings unless the grant expressly states that it does apply. The grant of any exemption by staff is subject to review by the Commission on its own motion. The grant of any continuing exemption is subject to review by the Commission to determine whether the exemption is no longer appropriate.

Authority: Tenn. Code Ann. §§ 3-6-105(a), 3-6-106(a)(4), 3-6-107(1), 3-6-115(e).

#### 0580-06-.05 Timeliness of Filing.

- (1) Electronic filing. A Disclosure Statement or other document filed using the Commission's internet filing system shall be considered timely filed if properly submitted to the internet-based electronic filing system before midnight on the due date.
- (2) Paper filing. Paper filings must be made by physical delivery to Commission offices by the close of business on the last day for timely filing. A paper document delivered to the Commission office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except holidays), 8:00 a.m. through 4:30 p.m. Facsimile transmissions and electronic mail (including attachments) shall not toll the deadline for filing.
- (3) Staff support for electronic and paper filing is available only during regular business hours.
- (4) Computation of time. In computing any period of time prescribed or allowed by statute, rule, or order, the date of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.
- (5) A Disclosure Statement or other document required to be filed with the Commission that fails to contain required information shall not toll the deadline for filing. The Commission may reject an incomplete document. Regardless of whether the Disclosure Statement is rejected or accepted by the Commission, Commission staff shall notify the filer of the required information that is lacking.

Authority: Tenn. Code Ann. §§ 1-3-102, 3-6-105(a), 3-6-106(a)(4), 3-6-107(1), 3-6-115(e)

\* The vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
R. Larry Brown (Chairman)	X				
Donald J. Hall	X				
Thomas J. Garland	X				
Linda W. Knight	X				
Dianne Neal	X				
Benjamin S. Purser, Jr.	X				

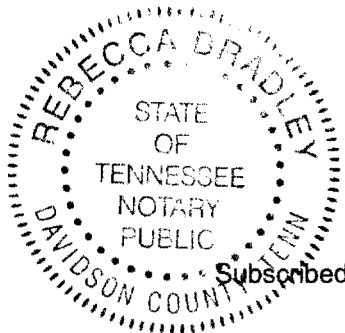
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Ethics Commission on October 28, 2008, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for rulemaking hearing being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: 2-4-09

Signature: *Bruce Androphy*

Name of Officer: Bruce Androphy

Title of Officer: Executive Director



Subscribed and sworn to before me on: 2-4-09

Notary Public Signature: *Rebecca Bradley*

My Commission Expires NOV 22, 2011

My commission expires on: 11-22-2010

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

*Robert E. Cooper, Jr.*  
Robert E. Cooper, Jr.  
Attorney General

2-20-09  
Date

**Department of State Use Only**

Filed with the Department of State on: 2/27/09

Effective on: ~~6/24/09~~ \*

\* A Notice of Withdrawal (05-18-09) was filed by the Ethics Commission on 05/21/2009. To view notice, [click here](#).

*Tre Hargett*  
Tre Hargett  
Secretary of State

### **Regulatory Flexibility Addendum**

Pursuant to Public Chapter 464 of the 105<sup>th</sup> General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

#### **Economic Impact Statement**

1. Types of small businesses directly affected:  
These new rules would not impact small businesses as they impose no new requirements on business owners and any requirement of these rules is also mandated by statute.
2. Projected reporting, recordkeeping and other administrative costs:  
The projected reporting, recordkeeping, and administrative costs as a result of these new rules are minimal.
3. Probable effect on small businesses:  
There is no expected adverse impact on small business as a result of these new rules.
4. Less burdensome, intrusive or costly measures:  
There are no alternative means available to accomplish these objectives. These changes could all be considered "housekeeping" or "clarifying of existing statute(s)" in nature.
5. Comparison with federal and state counterparts:  
The promulgation of these rules is similar to the practice of the federal government and other states.
6. Effect of possible exemption of small businesses:  
There is no expected exemption of small businesses as a result of these new rules or the effect thereof.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rules 0580-06 are promulgated for the purpose of providing procedures for the filing of disclosure statements by state and local office holders, candidates and appointees, and to provide for electronic filing of these documents to the greatest extent permitted by law.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These proposed rules are made pursuant to T.C.A. §§ 2-10-102; 2-10-115; 2-1-128; 3-6-105(a); 3-6-106(a092) and (4); 3-6-107(1); 3-6-115(e), and 8-50-501 through 8-50-505.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These new rules of the Tennessee Ethics Commission will affect state and local office holders, candidates, and appointees.

As these rules are being promulgated by publication, no comments regarding these rules have been received by the Tennessee Ethics Commission. However, an effective petition requesting a rulemaking hearing may be filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which these rules are published.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no Tennessee Attorney General Opinions which directly relate to the new rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have a minimal fiscal impact on the Tennessee Ethics Commission.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mr. Bruce Androphy, Executive Director of the Tennessee Ethics Commission, David Himmelreich, General Counsel for the Tennessee Ethics Commission, and I as Assistant General Counsel for the Commission, possess substantial knowledge and understanding of these rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Bruce Androphy, David Himmelreich, or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Any of the above persons, including myself, may be reached at the Tennessee Ethics Commission, 201 Fourth Avenue North, Suite 1820, Nashville, TN 37219 (telephone: 253-8634).

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.