

Proposed Rules
Of
The Tennessee Ethics Commission

Chapter 0580-01-01
Rules Pertaining To Lobbyists And Employers Of Lobbyists

Presented herein are proposed rules of the Tennessee Ethics Commission, which are identical to the Public Necessity Rules filed by the Commission February 2007. It is the intent of the Tennessee Ethics Commission 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. Such petition to be effective must be filed with the Tennessee Ethics Commission, 201 4th Ave. N, Suite 1820, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the proposed rules, 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.

New Rules

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0580-01-01-.01 Scope And Purpose.

- (1) Purpose. The purpose of the Tennessee Ethics Commission is to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct.
- (2) Scope. These rules provide for the regulation of lobbying activities through requirements related to the registration and financial disclosure of lobbyists and employers of lobbyists.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007.

0580-01-01-.02 Definitions.

- (1) Chief Executive Officer ("CEO"). For the purposes of T.C.A. § 3-6-301(8) and the rules contained in this Chapter, the term "chief executive officer" or "CEO" includes any position in an organization, regardless of the title the organization applies to such position, which is the highest ranking position responsible for the daily management of the organization.
- (2) Chief Financial Officer ("CFO"). For the purposes of T.C.A. § 3-6-301(8) and the rules contained in this Chapter, the term "chief financial officer" or "CFO" includes any position in an organization, regardless of the title the organization applies to such position, which is the highest ranking position responsible for the operational financial management of the organization.
- (3) Commission. The Tennessee Ethics Commission.

- (4) Executive Director. The Executive Director of the Tennessee Ethics Commission.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007.

0580-01-01-.03 Employer Of Lobbyist Registration.

- (1) Not later than seven (7) days after employing, retaining or otherwise arranging for a lobbyist to engage in lobbying, the employer of a lobbyist shall, as required by T.C.A. §§ 3-6-301(8) and 3-6-302, register with the Commission in the form and manner directed by the Commission.
- (2) As a component of the registration process, the employer shall verify that the lobbyist who is authorized to represent the employer has delivered to the employer a copy of the Commission ethics manual as required by T.C.A. § 3-6-114(c)(1). In lieu of physical delivery, for the purpose of this rule, the ethics manual shall be considered "delivered" by the lobbyist to the employer if:
 - (a) the lobbyist provides to the employer the Commission's current internet address where the manual is located; or
 - (b) a lobbying firm, which provides more than one (1) lobbyist to the employer, mails or e-mails a copy of the ethics manual to the employer with a listing of all individuals who are authorized to lobby for the employer.
- (2) An employer of a lobbyist shall, within thirty (30) days of registration, submit a non-refundable registration fee to the Commission in the form and manner directed by the Commission in the amount of one hundred and fifty dollars (\$150.00) per individual lobbyist registered; provided, however, that the Commission may, in its discretion in cases of extreme hardship as determined by a quorum of the Commission, reduce the registration fee or grant a waiver from the registration fee for a duly incorporated 501(c)(3) not-for-profit organization.
- (3) Regardless of whether or not subject to a fee pursuant to the preceeding paragraph (3), registered employers shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.
- (4) For the purposes of this Chapter, no registration shall be considered complete until all information and documentation reasonably required to verify compliance with these rules has been received by the Commission and all fees have been received as directed by the Commission.
- (5) In the event that the Commission determines that circumstances beyond the lobbyist's control, including, but not limited to technological problems on the Commission's website, prevent the lobbyist from timely submitting forms or fees in the manner, electronic or otherwise, directed by the Commission, the Commission may, in its discretion, allow the form or fee to be submitted in an alternative manner, or may grant the lobbyist a reasonable extension of time to submit the required form or fee in the proper manner.
- (6) Amendments. An employer of a lobbyist shall update, correct or otherwise modify

the employer of lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

- (a) Employers shall not be required to verify receipt of the Commission ethics manual when amending a current registration.
 - (b) Registration Following Termination of Lobbyist's Employment. If a lobbyist's employment with the employer is terminated for any reason by either party, but the lobbyist is subsequently re-employed or retained, the employer must submit a new registration form and fee in accordance with the preceding paragraphs (1) through (3), regardless of whether the lobbyist was already registered in the current registration year.
- (7) The computation of time within which to do any act required by this part shall be in accordance with T.C.A. § 1-3-102; provided, however, that documentation which has been properly submitted electronically in the form and manner directed by the Commission shall be considered filed at the actual date and time electronically received by the Commission.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007.

0580-01-01-.04 Lobbyist Registration.

- (1) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall, as required by T.C.A. § 3-6-302, register with the Commission in the form and manner directed by the Commission; provided, however, persons engaged solely in monitoring legislation and rule-making activities are not required to register so long as their activities are limited to information-gathering, passive observation of legislative or rulemaking proceedings, reporting to clients, rendering opinions to clients, or advising clients on proposed legislation, rules, executive orders and similar actions; provided, further, the lobbyist and employer must register not later than seven (7) days after the commencement of an agreement to actively communicate, or not later than seven (7) days of the activities and responsibilities otherwise changing from passive monitoring to active direct or indirect communication with legislative or executive officials for the purpose of influencing any legislative or administrative action.
- (2) As a component of the registration process, the lobbyist shall verify the delivery of the Commission ethics manual as required by T.C.A. § 3-6-114(c)(1). In lieu of physical delivery, for the purpose of this rule, the ethics manual shall be considered "delivered" by the lobbyist to the employer if:
 - (a) the lobbyist provided to the employer the Commission's current internet address where the manual is located; or
 - (b) a lobbying firm, which provides more than one (1) lobbyist to the employer, mails or e-mails a copy of the ethics manual to the employer with a listing of all individuals who are authorized to lobby for the employer. The manual will be considered delivered to the employer by all of the duly authorized lobbyists contained on the list.
- (3) A lobbyist shall, within thirty (30) days of registration, submit a nonrefundable registration fee to the Commission in the form and manner directed by the Commission in the

amount of one hundred and fifty dollars (\$150.00) per individual lobbyist registered; provided, however, that the Commission may, in its discretion in cases of extreme hardship as determined by a quorum of the Commission, reduce the registration fee or grant a waiver from the registration fee for a lobbyist employed by a duly incorporated 501(c)(3) not-for-profit organization whose only compensation is reimbursement of expenses.

- (4) Regardless of whether or not subject to a fee pursuant to the preceeding paragraph (3), registered lobbyists shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.
- (5) A lobbyist shall, within thirty (30) days of registration, submit a photographic portrait to the Commission for posting on the Commission's web page in the form and manner directed by the Commission; provided, however:
 - (a) A new photographic portrait is not required for the annual renewal or modification of an existing registration; and
 - (b) Photographic portraits may be updated or amended no more than annually unless otherwise authorized by the Commission due to technological errors.
- (6) For the purposes of this Chapter, no registration shall be considered completed until all information and documentation reasonably required to verify compliance with these rules has been received by the Commission and all fees have been submitted as directed by the Commission.
- (7) In the event that the Commission determines that circumstances beyond the lobbyist's control, including, but not limited to technological problems on the Commission's website, prevent the lobbyist from timely submitting forms or fees in the manner, electronic or otherwise, directed by the Commission, the Commission may, in its discretion, allow the form or fee to be submitted in an alternative manner, or may grant the lobbyist a reasonable extension of time to submit the required form or fee in the proper manner.
- (8) A lobbyist who registers with the Commission shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.
- (9) A lobbyist shall update, correct or otherwise modify the lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.
 - (a) Lobbyists shall not be required to verify delivery of the Commission ethics manual when amending a current registration.
 - (b) Registration Following Termination of Lobbyist's Employment. If a lobbyist's employment with the employer is terminated for any reason by either party but the lobbyist is subsequently re-employed or retained the lobbyist must submit a new registration form and fee in accordance with this part, regardless of whether the lobbyist was already registered with that employer in the current registration year.

- (10) The computation of time within which to do any act required by this part shall be in accordance with § 1-3-102; provided, however, that documentation which has been properly submitted electronically in the form and manner directed by the Commission shall be considered filed at the actual date and time electronically received by the Commission.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007.

0580-01-01-.05 Filing Of Disclosure Reports.

- (1) In accordance with the provisions of T.C.A. § 3-6-303, each employer of a lobbyist shall file with the Commission in the form and manner directed by the Commission an employer disclosure report on the dates and for the reporting periods specified below:
 - (a) Mid-year. An employer of lobbyist shall file a mid-year employer disclosure report no later than May 15. Such report shall cover the period from and including October 1 through March 31.
 - (b) Year-end. An employer of lobbyist shall file a year-end employer disclosure report no later than November 14. Such report shall cover the period from and including April 1 through September 30.
- (2) Disclosure of Events Held Under T.C.A. § 3-6-305(b)(8). Each lobbyist and employer of a lobbyist sponsoring an event held under T.C.A. § 3-6-305(b)(8) shall file with the Commission in the form and manner directed by the Commission:
 - (a) Seven (7) days prior to the event, a copy of any invitations to said event which were provided to all general assembly members; and
 - (b) an event disclosure report within thirty (30) days of the event; provided, however, if the costs of said event are shared by two (2) or more employers or lobbyists, a consolidated report may be filed in the form and manner directed by the Commission; provided further, however, that the employers shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007.

0580-01-01-.06 Violations Of Registration And Disclosure Requirements.

- (1) Failure to Register, Amend Registration, or Pay Fees.
 - (a) If the Executive Director determines that a lobbyist or employer of a lobbyist has failed to timely register or amend their registration with the Commission in the form and manner directed by the Commission, and/or has failed to timely submit to the Commission in the form and manner directed by the Commission the required registration fee, the Executive Director shall provide written notice of the alleged violation to the alleged violator by certified or

other mail which verifies delivery; such notice shall provide:

1. a description of the violations, including all relevant rule and statutory citations;
2. a description of the actions which must be taken to correct the violations;
3. a reasonable date certain by which such corrections must be made in order to avoid enforcement action; and
4. the potential penalties for failing to timely correct the violations.

(b) In the event the lobbyist or employer of lobbyist fails to properly correct the violations as detailed in the notice set forth in paragraph (a) above, the Executive Director shall send a written notice by certified or other mail which verifies delivery, to the lobbyist or employer informing the lobbyist or employer that the violations will be reviewed at the next regularly-scheduled Commission meeting for the assessment of civil penalties pursuant to T.C.A. § 3-6-306; in addition, such notice shall inform the employer or lobbyist of the date, time and location of the meeting in which the Commission will consider the violations.

- (2) Civil Penalties. Civil penalties shall be issued by the Commission, and are subject to review or appeal, in accordance with the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq., and T.C.A. § 3-6-306.

Authority: T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9) Administrative History: Original Rule filed as a Public Necessity Rule August 9, 2006; expired January 21, 2007. Public Necessity Rule filed February 2, 2007; effective through July 17, 2007. Reporter

The proposed rules set out herein were properly filed in the Department of state on the 23rd day of March, 2007 and will become effective on the 27th day of July, 2007. (FS 03-30-07, DBID 2478)