

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 11-17-11
Rule ID(s): 5075
File Date: 11/28/2011
Effective Date: 04/29/2012

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. 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. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission: Tennessee Military Department
Division: Office of General Counsel
Contact Person: Fred Denson
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Zip: 37204
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Revision Type (check all that apply):

Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0930-03-01	Rules and Regulations for Access to Public Records
Rule Number	Rule Title
0930-03-01-.01	Charges for access to public records
0930-03-01-.02	Waiver
0930-03-01-.03	Reduction of fees
0930-03-01-.04	Review and release

Chapter Number **Chapter Title**

Rule Number **Rule Title**

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

This rule is newly proposed, and not a change to an existing rule.

Rules
of
Military Department of Tennessee

Chapter 0930-03-01
Rules and Regulations for Access to Public Records

Table of Contents

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0930-03-01-.01 Charges for access to public records.

Upon a request for state records under Tennessee's Public Records Act, T.C.A. § 10-7-503 et seq., the Department shall assess charges for copying and labor based on the most current version of the Schedule of Reasonable Charges, issued by the Office of Open Records Counsel, available at [http://www.comptroller1.state.tn.us/openrecords/pdf/ScheduleofReasonableCharges\(final\)8.pdf](http://www.comptroller1.state.tn.us/openrecords/pdf/ScheduleofReasonableCharges(final)8.pdf).

Authority: T.C.A. §§ 8-4-604 and 10-7-503 et seq.

0930-03-01-.02 Waiver.

Should any charge assessed under Rule 0930-03-01-.01 total ten (\$10.00) dollars or less, the Department shall waive the charge and provide the requested documents without payment.

Authority: T.C.A. §§ 8-4-604 and 10-7-503 et seq.

0930-03-01-.03 Reduction of fees.

The Adjutant General may reduce any part of the fees calculated under these rules upon a written determination that such reduction would be in the best interests of the public.

Authority: T.C.A. §§ 8-4-604 and 10-7-503 et seq.

0930-03-01-.04 Review and release.

All public records requests regarding state records shall be reviewed by General Counsel prior to release by The Adjutant General or his or her designee to ensure compliance with all standards under state and federal law.

Authority: T.C.A. § 10-7-503 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

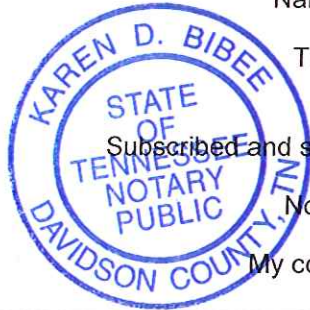
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. §4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 6 Oct 2011

Signature: [Signature]

Name of Officer: Major General Terry M. Haston

Title of Officer: The Adjutant General



Subscribed and sworn to before me on: 7th day of October, 2011

Notary Public Signature: Karen D. Bibee

My commission expires on: My Commission Expires: May 6, 2013

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.

[Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
10-25-11
 Date

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Filed with the Department of State on: 11/28/2011

Effective on: 04/29/2012

[Signature]
 Tre Hargett
 Secretary of State

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 PUBLICATIONS



Regulatory Flexibility Addendum

Pursuant to T.C.A. §§4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. §4-5-202(a)(3) and T.C.A. §4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rulemaking will not impact small business.

Impact on Local Governments

Pursuant to T.C.A. §§4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The impact of this rulemaking on local governments is de minimis.

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;

This newly proposed rule establishes guidelines for the Department in the assessment of copy and labor charges incurred under the TN Public Records Act and requires review of records prior to release to ensure compliance with state and federal 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;

T.C.A. §§ 8-4-604 and 10-7-503 et seq.

- (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;

This rulemaking will have the greatest impact on TN citizens making voluntary requests for copies of departmental records and does not create a mandate on any specific group. The rule does not impose a fee for inspection of documents or records requests under \$10.00. The fee may also be waived when doing so is in the best interest of the public.

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

I am unaware of any attorney general and reporter opinions or any judicial ruling that directly relate to this rule.

- (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;

This rulemaking is expected to have minimal impact on state and local government revenues and expenditures.

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

Fred Denson, General Counsel, Military Department of Tennessee

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

Fred Denson, General Counsel, Military Department of Tennessee

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

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