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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.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Office of the Commissioner
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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.)

Chapter Number	Chapter Title
0800-08-01	Charges for Copies of Public Records
Rule Number	Rule Title
0800-08-01-.01	Purpose and Scope
0800-08-01-.02	Definitions
0800-08-01-.03	Charges for Copies

Proposed Rules
of
Tennessee Department of Labor and Workforce Development
Chapter 0800-08-01
Charges for Copies of Public Records

New Rule

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0800-08-01-.01 Purpose and Scope
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0800-08-01-.01 Purpose and Scope

- (1) The purpose of this chapter is to implement provisions contained in the amendments to Tennessee Code Annotated § 10-7-503 establishing a schedule which a records custodian may use as a guideline to charge a citizen requesting copies of public records pursuant to the Tennessee Public Records Act, Tennessee Code Annotated §§ 10-7-501 et seq.
- (2) This chapter applies to charges for public records released by all agencies within the Department of Labor and Workforce Development except for records of the Division of Employment Security as described in Tennessee Code Annotated § 50-7-701(d).

Authority: 2008 Tennessee Public Acts Chapter 1179, T.C.A. § 4-3-1411, T.C.A. § 10-7-506 and T.C.A. § 50-7-701.

0800-08-01-.02 Definitions. As used in this chapter unless the context clearly otherwise requires:

- (1) "Commissioner" means the Commissioner of Labor and Workforce Development.
- (2) "OORC" means the Office of Open Records Counsel.
- (3) "Public Record" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by this agency.
- (4) "Records Custodian" means the individual(s) responsible for the production and release of public records within each operating section of the Department.

Authority: 2008 Tennessee Public Acts chapter 1179, T.C.A. § 10-7-506 and T.C.A. § 4-3-1411.

0800-08-01-.03 Charging for Copies of Public Records.

- (1) Charges for copies of public records released by the Department of Labor and Workforce Development under the authority of the Commissioner will be assessed in accordance with the current OORC Schedule of Reasonable Charges for Public Records or in accordance with the provisions contained in Title 20 Code of Federal Regulations, part 603.8(d) for copies of public records released by the Division of Employment Security.
- (2) Any charges incurred in the production of copies not specifically listed or in excess of the amounts specified in the Schedule of Reasonable Charges must be documented by the Records Custodian to justify the extra charge(s).

- (3) Charges may be reduced or waived at the discretion of the Commissioner. Appropriate documentation must be submitted by the Records Custodian when a reduction or waiver of the charges is requested.
- (4) Delivery and/or shipping costs incurred may be included in the total amount charged for the records release if appropriate.
- (5) Payment must be made in advance in the form of a check or money order made payable to the "Treasurer, State of Tennessee".

Authority: 2008 Tennessee Public Acts chapter 1179, T.C.A. § 4-3-1411, T.C.A. § 10-7-506 and T.C.A. § 50-7-701.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th 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.

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication or conflict with any existing federal or state law or rules. The adoption of the Office of Open Records Counsel Schedule of Reasonable Charges insures uniformity in charging for any records release in the state, so there will be no conflict with any local regulations.

2. Clarity, conciseness, and lack of ambiguity in the rule or rule:

The proposed rules are clear in purpose and intended execution. The proposed rules are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules apply only to citizens requesting copies of records and should not impact small businesses. Citizens requesting copies of records for business uses are not considered in this proposal.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The proposed rules will not impact schedules or deadlines.

5. Consolidation or simplification of compliance or reporting requirements:

There will be no additional reporting requirements associated with the proposed rules

6. Performances standards for small businesses:

There are no performance standards associated with this rule.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities

Additional Information Required by Joint Government Operations Committee

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

Rules 0800-08-01 is proposed to adopt and reference the provisions contained in Public Chapter 1179 of the Acts of 2008 that amended the Tennessee Public Records Act, T.C.A. §§ 10-7-503, *et seq.* which provides for the establishment of a schedule or reasonable charges which a records custodian may use as a guideline to charge a citizen requesting copies of public records pursuant to Title 10, Chapter 7, Part 5.

- (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;

Section 6 of Public Chapter 1179 establishes a schedule or reasonable charges which a records custodian may use as a guideline to charge a citizen requesting copies of public records pursuant to Title 10, Chapter 7, Part 5.

- (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;

Any persons who request copies of official state records from the Department of Labor and Workforce Development pursuant to the Tennessee Open Records Act, T.C.A. §§ 10-7-501 *et seq.* are directly affected by the rules in Chapters 0800-08-01. It appears that there are no objections to the proposed amendments to the rules since no inquiries have been made.

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

There have been no Attorney General opinions or judicial rulings relevant to these 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;

There are no anticipated increases or decreases in state and local government revenues and expenditures resulting from promulgation of the proposed rules and amendments to the existing rules.

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

Daniel A. Bailey General Counsel, Department of Labor and Workforce Development may be contacted for more information.

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

Daniel A. Bailey General Counsel, Department of Labor and Workforce Development, will explain the rules at a scheduled meeting of the committees.

- (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

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