

Amendment No. 1 to SB1005

Briggs
Signature of Sponsor

AMEND Senate Bill No. 1005*

House Bill No. 1201

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 2-10-110, is amended by adding the following as a new subsection:

(g) The registry shall not accept a settlement in which the aggregate amount of assessed civil penalties exceeds twenty-five thousand dollars (\$25,000) unless the settlement proposal is considered at either a regular meeting or, notwithstanding § 2-10-203(f), a special meeting called by the chair in which at least twenty-four (24) hours' notice is given to each member of the registry and each party seeking a settlement proposal. If a special meeting is called pursuant to this subsection (g), an agenda for the meeting must be placed on the registry's website at least twenty-four (24) hours prior to the meeting. The agenda must include the style of any matter to be considered, and the special meeting must be limited to consideration of only the matters listed on the agenda.

SECTION 2. Tennessee Code Annotated, Section 2-10-203, is amended by adding the following as a new subsection:

(l) Each regular meeting agenda must be published on the registry's website at least five (5) business days prior to the date of the meeting.

SECTION 3. Tennessee Code Annotated, Section 3-6-103, is amended by adding the following as a new subsection:

(l) Each regular meeting agenda must be published on the commission's website at least five (5) business days prior to the date of the meeting.

SECTION 4. Tennessee Code Annotated, Section 3-6-205, is amended by adding the following as a new subsection:

(c) The commission shall not accept a settlement in which the aggregate amount of assessed civil penalties exceeds twenty-five thousand dollars (\$25,000) unless the settlement proposal is considered at either a regular meeting or, notwithstanding § 3-6-103(f), a special meeting called by the chair in which at least twenty-four (24) hours' notice is given to each member of the commission and each party seeking a settlement proposal. If a special meeting is called pursuant to this subsection (c), an agenda for the meeting must be placed on the home page of the commission's website at least twenty-four (24) hours prior to the meeting. The agenda must include the style of any matter to be considered, and the special meeting must be limited to consideration of only the matters listed on the agenda.

SECTION 5. Tennessee Code Annotated, Section 4-55-101, is amended by adding the following as a new subsection:

(e) Each regular meeting agenda must be published on the bureau's website at least five (5) business days prior to the date of the meeting.

SECTION 6. Tennessee Code Annotated, Section 2-10-117, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 2-10-107, is amended by deleting subsection (a) and substituting instead the following:

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made by a candidate for local office or a political campaign committee participating in a local election during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of

contributions, continuing debts and obligations, or an expenditure deficit exists;

or

(2)

(A)

(i) A statement setting forth, under contributions, a list of all the contributions received, including the full name, complete address, occupation, and employer of each person who contributed during the period for which the statement is submitted, and the amount contributed by that person;

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain, and submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (a)(2)(A). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation, and employer and by accurately stating that such information is required under state law for all contributors. Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-55-103(1); and

(iii) The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure that is a contribution to a candidate. "Date of the receipt," as used in this subdivision (a)(2)(A)(iii), means the date when the

contribution was received by the candidate, candidate's committee, or treasurer; and

(B) A statement setting forth, under expenditures, a list of all expenditures made, including the full name and address of each person to whom an expenditure was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose of the payment which shall clearly identify that it is an allowable expenditure under § 2-10-114. The words "reimbursement," "credit card purchase," "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose." Any purchase made with a credit card shall also be disclosed as a payment to the vendor providing the item or service. Credit card payments to separate vendors shall be disclosed as separate expenditures. The statement must list the expenditures by category and amount.

SECTION 8. Tennessee Code Annotated, Section 2-10-107(c), is amended by deleting subdivision (1) and substituting instead the following:

(1) When filing a statement under § 2-10-105 or § 2-10-106, a contribution, as defined in § 2-10-102, for which no monetary consideration is paid or promised, referred to as an in-kind contribution in this part, shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The in-kind contribution list shall include:

(A)

(i) In-kind contributions of any amount including the category of the contribution, and the name, address, occupation, and employer of each person who made an in-kind contribution; and

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain and

submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (c)(1)(A). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation, and employer and by accurately stating such information is required under state law for all contributors. Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-55-103(1); and

(B) For the statement of each candidate, the date of the receipt of each in-kind contribution, and for the statement of a political campaign committee, the date of each expenditure that is an in-kind contribution to a candidate.

SECTION 9. Tennessee Code Annotated, Section 2-10-212(i), is amended by designating the existing language as subdivision (1) and adding the following subdivision (2):

(2) Subdivision (i)(1) does not apply to reports covering periods beginning on and after January 16, 2023.

SECTION 10. Tennessee Code Annotated, Section 2-10-105, is amended by deleting subsection (h) and substituting instead the following:

(h)

(1) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall, by telegram, facsimile machine, hand delivery, overnight mail delivery, or electronically, file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), of:

(A) The full name and address of each person or political campaign committee from whom the candidate or committee has received and accepted a contribution, loan, or transfer of funds during such period and the date of the receipt of each contribution that, in the aggregate, equals or exceeds the following amounts:

(i) For a committee participating in the election of a candidate for any statewide office, five thousand dollars (\$5,000);

(ii) For a committee participating in the election of a candidate for senate, three thousand dollars (\$3,000); and

(iii) For a committee participating in the election of any other state or local public office, one thousand dollars (\$1,000); and

(B) The full name and address of each person or recipient entity who was paid or who owes an obligation during the period equal to or exceeding the following amounts:

(i) For a committee participating in the election of a candidate for any statewide office, five thousand dollars (\$5,000);

(ii) For a committee participating in the election of a candidate for senate, three thousand dollars (\$3,000); and

(iii) For a committee participating in the election of any other state or local public office, one thousand dollars (\$1,000).

(2) Any report filed pursuant to subdivision (h)(1) must include the amount, date, and a brief description of each such contribution, expenditure, or loan reported, and a valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly,

for the repayment of all or any part of the loan. For an independent expenditure, the report must include the name of the candidate or measure supported or opposed.

(3) Each report required by subdivision (h)(1) shall be filed by the end of the next business day following the day on which the contribution or expenditure to be reported is received or made.

(4) The registry shall develop appropriate forms for the report required by subdivision (h)(1) and make such forms available to the candidates and the county election commissions.

(5)

(A) Each report filed under subdivision (h)(1) with the registry of election finance must be posted on the website of the registry as soon as practicable. The registry shall develop an electronic filing system for reports required under subdivision (h)(1).

(B) Each report filed under subdivision (h)(1) with a county election commission must be posted on the website of the commission as soon as practicable, if the commission otherwise posts campaign finance reports. A county election commission may develop an electronic filing system for reports required under subdivision (h)(1).

(6) An expenditure or contribution reported under this subsection (h) must not be omitted or excluded from applicable reports filed pursuant to subsection (c).

SECTION 11. Tennessee Code Annotated, Section 2-10-110(f), is amended by deleting subdivision (1) and substituting instead the following:

(1)

(A) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308, any person who directly controlled expenditures is personally liable for the penalty.

(B) Notwithstanding subdivision (f)(1)(A), for any civil penalty authorized by this section or § 2-10-308 and levied against a multicandidate political campaign committee that named or certified one (1) or more candidates as a treasurer or officer at the time an offense occurred, or was constructively controlled or directed by one (1) or more candidates in the commission of an offense, the candidate, or candidates, and any person who directly controlled expenditures for the committee are personally liable for the penalty. Any such civil penalty must not be paid using funds from a multicandidate political campaign committee.

SECTION 12. Tennessee Code Annotated, Section 2-10-106(b), is amended by deleting the subsection and substituting instead the following:

(1) A candidate or political campaign committee that complies with the requirements of § 2-10-105(a) and (b), as applicable, and § 2-10-131(a), shall ensure that all funds in a campaign account remain separate and segregated at all times from other funds, including from personal funds.

(2) Funds maintained in a separate, segregated campaign account in accordance with subdivision (b)(1) are not the personal property of a candidate or other individual. Such funds are not subject to garnishment or any type of execution to satisfy the debts or obligations of an individual that are not campaign debts or obligations.

(3) A candidate or political campaign committee found to be in violation of subdivision (b)(1) commits a Class 2 offense and is subject to a civil penalty by the registry of election finance of not more than twenty-five dollars (\$25.00) per day up to a maximum of not more than ten thousand dollars (\$10,000).

SECTION 13. Tennessee Code Annotated, Section 2-10-132, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b) Notwithstanding another law to the contrary, an organization that is tax exempt under United States Internal Revenue Service Code § 501(c)(4) (26 U.S.C. § 501(c)(4)) is deemed to be a political campaign committee for purposes of reporting expenditures in accordance with § 2-10-105(c)(1) and (h) and for filing an appointment of treasurer form if:

(1) The organization expends an aggregate total of at least five thousand dollars (\$5,000) in organizational funds, moneys, or credits for communications that expressly contain the name or visually depict the likeness of a state or local candidate in a primary or general election; and

(2) Such expenditures or communications occur within sixty (60) calendar days immediately preceding a primary or general election in which the named or visually depicted candidate appears on the ballot.

SECTION 14. Tennessee Code Annotated, Section 2-10-203, is amended by deleting subdivisions (c)(2) and (3) and substituting:

(2) The senate shall appoint two (2) members, with one (1) member to be chosen by the members of the senate democratic caucus and one (1) member to be chosen by the members of the senate republican caucus. If either caucus fails to appoint a member within one hundred twenty (120) days after receiving written notice of a vacancy from the registry or after receiving written notice of the expiration of a term from the registry, the speaker of the senate shall appoint a democrat or republican, as applicable, to fill the vacancy or make the appointment; and

(3) The house of representatives shall appoint two (2) members, with one (1) member to be chosen by the members of the house of representatives democratic caucus and one (1) member to be chosen by the members of the house of

representatives republican caucus. If either caucus fails to appoint a member within one hundred twenty (120) days after receiving written notice of a vacancy from the registry or after receiving written notice of the expiration of a term from the registry, the speaker of the house of representatives shall appoint a democrat or republican, as applicable, to fill the vacancy or make the appointment.

SECTION 15. Tennessee Code Annotated, Section 2-10-203, is amended by adding the following as subsection (j):

(j) Subsection (h) is applicable for one (1) year subsequent to the removal, vacancy, or termination of the term of office of a member of the registry.

SECTION 16. Tennessee Code Annotated, Section 2-10-212, is amended by adding the following sentence at the end of subdivision (b)(3):

The registry shall strive to complete and release its findings within such odd-numbered year or another odd-numbered year.

and is further amended by deleting subsection (c) and substituting instead the following:

(c) In order to comply with an audit, candidates, campaigns, and political campaign committees shall retain copies of all checks, money orders, wire or account transfer statements, withdrawal statements, credit or debit statements, bank statements, vendor receipts, and other documentation directly resulting from a financial transaction involving the receipt or disbursement of any funds subject to disclosure under part 1 of this chapter for two (2) years after the date of the election to which the records refer.

SECTION 17. Tennessee Code Annotated, Section 2-10-125, is amended by adding the language "or campaign services" immediately following the language "consulting services" wherever it appears; and by adding the following new subsections:

(e) If a person or entity contracts to pay a member of the general assembly or a staff person or employee of the general assembly a fee, commission, or other form of compensation, for the provision of campaign services, the person or entity shall make the disclosures required under subdivisions (a)(1)-(5) with respect to the campaign

services provided. A copy of any disclosure submitted to the Tennessee ethics commission under this subsection (e) shall be sent by the commission to the registry of election finance.

(f) As used in this section, "campaign services" means services to advise or assist a candidate, political campaign committee, affiliated political campaign committee, or multicandidate political campaign committee in affecting the result of an election, including, without limitation, campaign work, paper and electronic advertising, producing mailers and fliers, and distributing mailers and fliers.

SECTION 18. Tennessee Code Annotated, Section 2-10-125(d), is amended by deleting subdivision (d)(1) and substituting instead the following:

(1) It is a Class A misdemeanor for a person or entity to knowingly fail to file a disclosure or to knowingly provide false, incomplete, or misleading information on the disclosure form.

SECTION 19. Tennessee Code Annotated, Section 2-10-126, is amended by adding the language "or campaign services" immediately following the language "consulting services" wherever it appears; and by adding the following new subsections:

(e) If a member of the general assembly or a staff person or employee of the general assembly contracts to receive a fee, commission, or other form of compensation, for the provision of campaign services to a person or entity, the member, staff person, or employee shall make the disclosures required under § 2-10-125(a)(1)-(5) with respect to the campaign services provided. A copy of any disclosure submitted to the Tennessee ethics commission under this subsection (e) shall be sent by the commission to the registry of election finance.

(f) As used in this section, "campaign services" means services to advise or assist a candidate, political campaign committee, affiliated political campaign committee, or multicandidate political campaign committee in affecting the result of any election,

including, without limitation, campaign work, paper and electronic advertising, producing mailers and fliers, and the distribution thereof.

SECTION 20. Tennessee Code Annotated, Section 2-10-126(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) It is a Class A misdemeanor for a person or entity to knowingly fail to file a disclosure or to knowingly provide false, incomplete, or misleading information on the disclosure form.

SECTION 21. Tennessee Code Annotated, Section 2-10-125(a), is amended by deleting subdivision (1) and substituting instead the following:

(1) The person to whom the fee was paid, including the full names and identities of any person or other entity through which payment flowed to or from the person making the disclosure;

SECTION 22. Tennessee Code Annotated, Section 2-10-123(a) and (b), are amended by deleting the language:

member of the general assembly, member-elect of the general assembly, governor, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury

and substituting instead the following language:

member of the general assembly, member-elect of the general assembly, governor, member of the governor's cabinet, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury

SECTION 23. Tennessee Code Annotated, Section 8-50-502, is amended by adding the following new subdivision:

(11)

(A) By any member of the general assembly or candidate for the general assembly, the name of any multicandidate political committee established or

controlled by the member or candidate within the immediately preceding five (5) years of the date of the disclosure;

(B) Disclosure under this subdivision (11) must be made annually beginning with the candidate or official's next statement due after January 1, 2023.

SECTION 24. Tennessee Code Annotated, Section 8-50-501(a), is amended by deleting subdivision (6) and substituting:

(6) Each supreme court justice, judge of the court of criminal appeals, judge of the court of appeals, chancellor, circuit court judge, criminal court judge, or judge of a state trial court of record;

SECTION 25. Tennessee Code Annotated, Title 8, Chapter 50, Part 5, is amended by adding the following new section:

8-50-507.

Each disclosure statement or amendment to a disclosure statement filed under this part must be signed either in writing or electronically under penalty of perjury, and contain substantially the following language:

I understand that, pursuant to T.C.A. § 8-50-507, submitting a disclosure or amendment to a disclosure form which contains false or incomplete information may subject me to the penalties of perjury. The information contained in this disclosure or amendment to a disclosure form is true, complete, and correct to the best of my knowledge, information, and belief.

_____ Signature _____ Date

SECTION 26. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following as a new section:

A candidate or political campaign committee, in soliciting and receiving a contribution from a person, shall not utilize pre-checked or pre-marked boxes in a solicitation authorizing or requiring continuing future contributions to that candidate or

committee from the credit card or another form of payment provided by the person from whom a contribution is requested. Such a request for a continuing future contribution from a potential contributor must be accepted and acknowledged in writing by the potential contributor in clear and precise language evidencing the intent of the contributor to authorize a continuing contribution. Such continuing contributions must not exceed the contribution limits established in part 3 of this chapter.

SECTION 27. Tennessee Code Annotated, Section 2-10-105(e), is amended by deleting subdivision (2) and substituting instead the following new subdivisions:

(2) In addition to the requirements in subdivision (e)(1), a multicandidate political campaign committee shall also certify the name and address of all officers of such committee and of all persons who directly control expenditures to the registry of election finance. A multicandidate political campaign committee must have at least one (1) officer, not including the treasurer of such committee, and must have at least one (1) person who directly controls expenditures.

(3)

(A) Any multicandidate political campaign committee that registers on or after July 1, 2022, must submit to the registry of election finance evidence of identification for each, officer, person who directly controls expenditures, and treasurer of the multicandidate political campaign committee prior to the committee making expenditures or receiving contributions. For any multicandidate political campaign committee in existence on the effective date of this act, the committee must submit any such required evidence of identification by January 31, 2023.

(B) After a multicandidate political campaign committee submits evidence of identification under subdivision (e)(3)(A), if the committee designates a new person as designated in subdivision (e)(3)(A), the committee shall submit

evidence of identification for such person within thirty (30) days of the designation.

(C) As used in this subdivision (e)(3), "evidence of identification" has the same meaning as such term is used in § 2-7-112(c) except that when a Tennessee identification is specified in that section, any other equivalent identification issued by another state may be used for purposes of this section.

SECTION 28. Tennessee Code Annotated, Section 3-6-103(c)(1), is amended by adding the following language after the language "appear on the second list of candidates" in subdivisions (B) and (C):

. If a caucus fails to give the speaker a list of candidates within one hundred twenty (120) days after receiving written notice of a vacancy from the ethics commission, receiving written notice of the expiration of a term from the ethics commission, or requesting a second list of candidates, the speaker shall appoint a member of the majority party or member of the minority party, as applicable

SECTION 29.

(a) Sections 1-6 and 26 of this act take effect upon becoming a law, the public welfare requiring it.

(b) Sections 7 and 8 of this act take effect January 16, 2023, the public welfare requiring it.

(c) All other sections of this act take effect July 1, 2022, the public welfare requiring it.