



Tennessee
State Government

OCOEE RIVER RECREATION AND ECONOMIC
DEVELOPMENT FUND BOARD

BOARD ORIENTATION MANUAL

March 2019

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Ocoee River Recreation and Economic Development Fund Board

Board Characteristics

Fifteen members: nine voting and six nonvoting

Five voting members are appointed by the Governor for four-year, renewable terms. The members represent the following interests:

- Economic development interests
- Private boater interests
- Permit holders (three permit holders)

All appointments must be made by June 15, begin on July 1, and expire on June 30 of the appropriate year.

Four ex officio voting members:

- Manager of the Hiwassee/Ocoee Scenic River State Park
- Comptroller of the Treasury, or designee
- State treasurer, or designee
- Polk County Mayor

Six ex officio nonvoting members:

- Commissioner of Environment and Conservation, or designee
- Commissioner of Tourist Development, or designee
- Commissioner of Economic and Community Development, or designee
- Executive Director of Tennessee Wildlife Resources Agency, or designee
- Member of the House of Representatives whose legislative district includes the majority of the Ocoee River Management Zone
- Member of the Senate whose legislative district includes the majority of the Ocoee River Management Zone

The Board is established under Tennessee Code Annotated section 11-8-104 for the administration of the Fund to support recreational water releases on the Ocoee River, to provide for management of the Ocoee River management zone by the Department of Environment and Conservation, State Parks Operations, and to encourage the economic growth of the Ocoee River.

The Board is scheduled to terminate on June 30, 2019, and the one-year wind-down period begins. The Commerce, Labor, Transportation and Agriculture Joint Subcommittee met September 26, 2018, and recommended that the Board be extended two years. *See* Tennessee Code Annotated section 4-29-240.

Members	Representative of	Term Begins	Term Ends
Angelo Giansante	Manager of Hiwassee/Ocoee Scenic River State Park		
Macy Brower	Comptroller of the Treasury (or designee)		
Drew Freeman	State Treasurer (or designee)		
Robby Hatcher	Polk County Mayor		
Melissa Woody	Economic development interests	07.01.2018	06.30.2022
Tim Henderson	Private boater interests	07.01.2018	06.30.2022
Ryan Cooke	Ocoee River management zone commercial permit holders	07.01.2018	06.30.2022
Lamar Davis	Ocoee River management zone commercial permit holders	07.01.2018	06.30.2021
Keith Jenkins	Ocoee River management zone commercial permit holders	07.01.2018	06.30.2020
Anne Marshall	Commissioner of TDEC (or designee)		
Kevin Mahoney	Commissioner of Tourism (or designee)		
Brooxie Carlton	Commissioner of ECD (or designee)		
Chris Richardson	Executive Director of TWRA (or designee)		
Rep. Dan Howell	Member of the House of Representatives		
Sen. Mike Bell	Member of the Senate		

Office of General Counsel Points of Contact

Bureau of Parks & Conservation				
State Parks Operations	OVERALL	Will Kerby	Brian Clifford	Emily Urban
	Areas of Expertise			
	Operations	Will Kerby	Brian Clifford	
	Administrative Services	Will Kerby	Brian Clifford	
	Facilities, Land Management, GIS Section	Will Kerby	Brian Clifford	
	Policies/Procedures	Will Kerby	Brian Clifford	
	Interpretive Programs & Education	Will Kerby	Brian Clifford	
	Marketing & Product Development	Will Kerby	Brian Clifford	
	Claims Commission	Brian Clifford	Emily Urban	

General Counsel: Jenny Howard

Senior Legal Advisor: Joe Sanders

Primary Attorney Point of Contact: Will Kerby

OGC PERSONNEL--Contact Information

Name	Phone	E-Mails
Ball, Ashley	615-532-0142	Ashley.Ball@tn.gov
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ROBERT'S RULES IN SHORT: A GUIDE TO RUNNING AN EFFECTIVE MEETING

"Where there is no law, but every man does what is right in his own eyes, there is the least of real liberty." Henry M. Robert.

Importance of Rules to an Effective Meeting

While groups sometimes proceed informally or by consensus, it is generally accepted that deliberative bodies operate much more effectively when they follow known rules of procedure.

In most instances and except as changed by the deliberative body, the rules to be followed are *Robert's Rules of Order* (hereinafter referred to as RR). These rules were first established by General Henry M. Robert in 1876. The latest edition of RR is the 11th edition.

A complete copy of RR runs nearly 700 pages. Even abridged versions, which are quite useful, often run 200 pages. Thus it is clear that this is a very brief summary.

RR defines the role of the chair, of members of the body, and establishes rules of procedure. These rules have been crafted and adjusted over the years to assist in effective meetings, and to balance carefully the rights of the majority to act and the rights of the minority to be heard, and in some cases, prevent action.

Robert's Rules of Order – Common Motions

- A. Proceed by Motion. The most basic element of RR is that matters come before the body by motion. A board member makes a motion simply by saying "I move that" or "Move adoption of," or "Move referral of," or "Move to amend." It is not the form of the motion, but the substance of it which governs.

- B. Role of the Chair. It is the obligation of the chair to run an orderly meeting. Members of the board should not speak until they have been recognized by the chair. Except for a limited class of motions, a member may not interrupt another member when they have the floor. The chair also rules on any votes and rules on any questions of proper procedure. Generally, under RR, the chair does not participate in debate or vote unless the chair's vote affects the outcome of the motion. Some committees have changed this by rule to always allow the chair to vote.

- C. Types of Motions. Under RR, motions generally fall into one of four classes. These are:
 - 1. The Main Motion: This is the matter that is before the body at that moment. Nearly all other motions bear some relation to the main motion.
 - 2. Subsidiary Motions: These propose to do something to or with the main motion.

These motions are all subject to an order of precedence which will be discussed below. Examples include:

- *A motion to amend the previous motion;*
- *A motion to refer* (referring the motion for further study if additional information or time is needed);
- *A motion to lay on the table* (laying the motion aside temporarily without setting a definite time to reconsider, but with the provision that a majority can take it back up at any given time); and
- *A motion calling the question* (also known as moving the *previous question*; bringing an end to debate and an immediate vote on one or more pending questions).

Note that what is the "main motion" for application of the rules of precedence may change during the course of consideration of a matter: For example, if the main motion is to adopt a resolution, and a member offers a subsidiary motion to amend the resolution, the proposal for amendment becomes the main motion for purposes of consideration of the order of precedence of other motions. That is, the motion to amend is subject to further amendment, referral, laying on the table, etc. It is only when that motion has been disposed of that the motion to adopt is then back before the body for consideration.

3. Incidental Motions: These relate to the pending matter, but generally relate to it in a procedural way such that the incidental motion must be dealt with before the body may return to either the main or subsidiary motion before it. Incidental motions take precedence over whatever motion is before the body, and in some instances, may be made when the mover does not have the floor. Examples include:

- *A motion for a point of order or procedure* (requiring the chair to make a ruling on the question involved);
- *A motion to appeal a ruling on a point of order or procedure* (when the chair has made a ruling on a point of procedure, appealing the ruling and requiring the chair to put the matter to all members for a vote);
- *A request for a point of information* (inquiring as to facts affecting the business at hand, directed to the chair or to a member through the chair);
- *A call for a roll call* (also referred to as *a division of the assembly*; this motion requires the vote to be recounted by roll call, whereas a formal division of the assembly requires each member to stand); and
- *A suspension of the rules* (suspending RR and/or the regular rules governing the board's procedure when those rules do not allow for the proposed action, provided that the action is not in violation of the board's bylaws or other local, state, or federal law).

4. Privileged Motions: These do not relate to the pending matter, but relate to special matters of overriding importance. They are among the very few motions that take precedence over all other motions. Examples include:
 - *A motion to recess* (short intermission in the meeting);
 - *A question of privilege* (interrupting pending business to state an urgent request, such as to address noise, inadequate ventilation, introduction of a confidential subject, etc.); and
 - *A motion to adjourn* (moving to close the meeting, which can be done even while business is pending, as long as the date/time of the next meeting is established).

D. Common Motions. An almost limitless number of motions may be made. RR lists at least 84 potential motions. This section will discuss some common motions; the reader is also referred to the accompanying "cheat sheet" attached as an appendix to this manual.

1. *Adjourn*: To end the meeting. Not debatable.
2. *Adoption*: To adopt the matter before the body.
3. *Amendment*: To modify the main motion before the body.
4. *Division of Assembly / Roll Call*: A roll call vote call is similar to a call for division. Any member may do this, the motion need not be seconded, and it does not require a vote. It is not debatable.
5. *Division of the Question / Separation*: A request to have separate votes on different paragraphs or portions of the proposal before the body. It is not debatable, but does require a second.
6. *Lay on the Table / Take off the Table*: A motion to temporarily defer consideration of a matter and then to ask that the matter be taken up again. A motion to lay on the table is often used when information necessary for consideration is temporarily unavailable for some reason. It is often made simply as a motion to "table." A motion to take off the table is to bring the matter before the body again. Neither motion is debatable. The motion to table should not be used if the intent is essentially to kill a proposal.
7. *Postpone Indefinitely*: A motion that the body decline to take a position on the main question. This is the motion to be used if the intent is to not adopt the matter before the board, without explicitly voting it down. Its adoption kills the main motion for the duration of the meeting.
8. *Point of Information*: A motion used when a member of the board desires some information prior to proceeding to a vote on the matter before the board. It does not require a second and no vote is actually taken on the point of information. A member simply says, "I rise to a point of information" or "Point of Information?"

It is proper when another has the floor.

9. *Point of Order or Procedure:* A motion that raises a question about the procedure being followed by the body. This motion is not subject to a second or a debate. The ruling on the Point of Procedure is committed to the chair of the board. If a member of the body disagrees with the ruling, they may appeal the ruling of the chair to the full body. An appeal does require a second, and a majority of the body must disagree with the chair's ruling for it to be reversed.
10. *Point of Privilege:* A motion that normally relates to some personal matter or to the operation of the body, such as a room that is too hot, too cold, too loud, confidential information which should not be discussed before the body, etc. It does not require a second, nor is it debatable.
11. *Previous Question:* A motion requesting that the board immediately vote on whatever matter is otherwise before it; it cuts off debate and proceeds to an immediate vote. The motion can be made either by "calling the question", "moving the previous question," or simply stating "Question." The motion requires a second, is non-debatable, and requires a two-thirds vote.
12. *Recess.* A motion that asks that the board take a short break. The length of time of the recess should be established. This motion takes precedence over almost all other pending motions. It requires a second, is not debatable, and requires a majority vote.
13. *Reconsideration:* A motion that asks the body to reconsider a matter upon which it has already voted. Generally it must be made at the same meeting at which the matter was considered. The purpose of the motion is to correct any erroneous action or added information or changed situation since the taking of the vote.

A motion to reconsider may only be made by a member who voted on the winning side of the prior question. This normally will be a member in the majority, but if a matter fails because it does not reach the required majority, it may be that the motion for reconsideration may be made by a member who actually is less than a majority. For example, if a matter needing a 2/3 vote falls one vote short of 2/3, reconsideration may only be moved by a member of the minority. If the motion to reconsider is approved, the prior proposal is then again before the board.
14. *Motion to Refer / Commit:* A motion that asks that a matter be referred to another body, e.g., a committee.
15. *Suspension of the Rules:* A motion asking the board to suspend its rules when the board wishes to take an action it cannot take without violating one of its rules. This action cannot conflict with the bylaws, or any federal, state, or local law. The motion requires a two-thirds majority, but is not debatable.

- E. Debate. Once a debatable motion is before the body, members of the body proceed to debate. In both the making of motions and in debating the motions, members should wait to be recognized by the Chair. The maker of the motion should be allowed to speak first. The rules of the board may limit the number of times and length of time that a member of the board may participate in debate. Under RR, generally a member is allowed to speak twice on a particular question.
- F. Unanimous Consent. Asking for unanimous consent is a quick way to dispose of non-controversial items. The board may do this by proposing a "consent agenda" near the beginning of a meeting. The items on the consent agenda can be disposed of by unanimous approval, as long as no member of the board objects. The Chair may ask for unanimous consent, or a member may ask for it on any pending matter. The Chair may do this by asking, "Is there any objection to recording a unanimous vote on the item?"

Precedence of Motions

Some common motions are listed in descending order of precedence; that is, a motion can be introduced if it has higher precedence than the pending matter. The motions below are listed in order of precedence and separated by whether or not they are debatable.

Undeatable Motions

1. Adjourn
2. Recess
3. Question of Privilege
4. Lay on the Table
5. Previous Question
6. Limit or Extend Debate

Debatable Motions

1. Postpone to a Definite Time
2. Refer or Commit
3. Amend
4. Postpone Indefinitely

5. Main Motion

Incidental and Privileged Motions: Recall that incidental and privileged motions take precedence over the main motion before the body (e.g., Point of Order, Point of Information, Suspend the Rules, Division of the Assembly or of the Question), and some privileged motions take precedence over whatever motion is before the body.

Parliamentary Motions Guide

Based on *Robert's Rules of Order Newly Revised (11th Edition)*

The motions below are listed in order of precedence. Any motion can be introduced if it is higher on the chart than the pending motion.

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§21 Close meeting	I move to adjourn	No	Yes	No	No	Majority
§20 Take break	I move to recess for	No	Yes	No	Yes	Majority
§19 Register complaint	I rise to a question of privilege	Yes	No	No	No	None
§18 Make follow agenda	I call for the orders of the day	Yes	No	No	No	None
§17 Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
§16 Close debate	I move the previous question	No	Yes	No	No	2/3
§15 Limit or extend debate	I move that debate be limited to ...	No	Yes	No	Yes	2/3
§14 Postpone to a certain time	I move to postpone the motion to ...	No	Yes	Yes	Yes	Majority
§13 Refer to committee	I move to refer the motion to ...	No	Yes	Yes	Yes	Majority
§12 Modify wording of motion	I move to amend the motion by ...	No	Yes	Yes	Yes	Majority
§11 Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
§10 Bring business before assembly (a main motion)	I move that [or "to"] ...	No	Yes	Yes	Yes	Majority

Parliamentary Motions Guide

Based on *Robert's Rules of Order Newly Revised (11th Edition)*

Incidental Motions - No order of precedence. Arise incidentally and decided immediately.

YOU WANT TO:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§23 Enforce rules	Point of order	Yes	No	No	No	None
§24 Submit matter to assembly	I appeal from the decision of the chair	Yes	Yes	Varies	No	Majority
§25 Suspend rules	I move to suspend the rules which ...	No	Yes	No	No	2/3
§26 Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
§27 Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
§29 Demand rising vote	I call for a division	Yes	No	No	No	None
§33 Parliamentary law question	Parliamentary inquiry	Yes (if urgent)	No	No	No	None
§33 Request information	Request for information	Yes (if urgent)	No	No	No	None

Motions That Bring a Question Again Before the Assembly - no order of precedence. Introduce only when nothing else pending.

§34 Take matter from table	I move to take from the table ...	No	Yes	No	No	Majority
§35 Cancel or change previous action	I move to rescind/ amend something previously adopted...	No	Yes	Yes	Yes	2/3 or maj. w/ notice
§37 Reconsider motion	I move to reconsider the vote ...	No	Yes	Varies	No	Majority

ARTICLE VII

CONFLICTS OF INTEREST POLICY

Section 1. All members of the Board receive and accept the responsibilities of public trust with their appointments. As provided in Tennessee Code Annotated, section 11-8-105, the Board adopts this article as a policy related to conflicts of interest, to ensure that all members avoid any situation that creates an actual or perceived conflict of interest related to the work of the Board.

Section 2. Each member shall submit to TDEC for administrative purposes a Conflicts of Interest Policy Acknowledgement Form upon appointment and annually no later than each October meeting.

Section 3.

- a. Each member shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - i. Using public office for private gain;
 - ii. Losing complete independence or impartiality;
 - iii. Making a government decision outside of official channels; or
 - iv. Affecting adversely the confidence of the public in the integrity of the government.
- b. No member may, directly or indirectly:
 - i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the Board and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the member; or

ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through the member's appointment to the Board.

c. No member may make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is *de minimis* or is lawfully available to the general public.

d. Each member shall avoid all known conflicts of interest, and to the extent the member becomes aware of a conflict of interest in connection with any matter brought before the Board, the member shall disclose the conflict to the other members and will further recuse from participating in any consideration of the matter.

e. No member may participate in decisions or actions that benefit the member, the member's immediate family, or the member's business differently than any other person similarly situated or any other matter in which the member's participation may create an appearance of bias or impropriety.

f. When a member is in doubt as to the proper interpretation of this article, the member is expected to seek the advice of the appointing authority or appropriate legal counsel, as applicable.



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2019 JAN 29 AM 10:22
SECRETARY OF STATE
PUBLICATIONS

STATE OF TENNESSEE
EXECUTIVE ORDER
BY THE GOVERNOR

No. 2

**AN ORDER CONCERNING ETHICS POLICIES APPLICABLE TO, AND ETHICS
DISCLOSURES REQUIRED OF, EXECUTIVE BRANCH EMPLOYEES**

WHEREAS, establishing, communicating, complying with, and enforcing a robust and comprehensive ethics policy within the Executive Branch of the State of Tennessee is essential to maintaining public trust in government and ensuring the proper performance of government; and

WHEREAS, disclosure is an indispensable element of an effective ethics policy; and

WHEREAS, this Administration is committed to simplifying and streamlining government processes, systems, and policies to a point understandable by Tennessee citizens;

WHEREAS, this Executive Order No. 2 underscores, expands, and enhances the commitment of this Administration to the highest standards of ethics and transparency by employees of the Executive Branch.

NOW THEREFORE, I, Bill Lee, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and the laws of Tennessee, do hereby direct and order that:

1. Except where otherwise noted, this Order applies to the following employees of the Executive Branch of the State of Tennessee: the Governor, members of the Governor's staff, members of the Governor's Cabinet, and all other Executive Branch employees.
2. Each employee shall avoid any action, whether or not specifically prohibited by statute, regulation, or this Order, which might result in or create the appearance of:
 - a. Using public office for private gain;
 - b. Giving preferential treatment to any person;
 - c. Impeding government efficiency or economy;
 - d. Losing complete independence or impartiality;

- e. Making a government decision outside of official channels; or
 - f. Affecting adversely the confidence of the public in the integrity of the government.
3. Each employee is expected to comply with the following ethical principles and policies governing financial interests, use of information, and use of government property:
- a. Financial interests.
 - i. No employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the State or any of its agencies. In recognition of the fact that many spouses have separate careers, the normal employment compensation of a spouse whose regular, ongoing employer or business has a contractual arrangement with the State shall not be considered a “benefit” to the employee, provided the contract with the State was procured without any participation, assistance, or influence by the employee.
 - ii. No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her government duties or responsibilities. “Indirect financial interest” in this case includes a substantial interest on the part of a member of the employee’s household. This subsection shall not apply to interests that have been placed into a “blind trust” arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests. This subsection also shall not apply to ownership of publicly traded stocks or bonds where such ownership constitutes less than two percent (2%) of the total outstanding amount of the stocks or bonds of the issuing entity. If, at the time the employee begins employment with the State or at any subsequent time during State employment, the employee possesses such direct or indirect financial interests, the employee shall divest such interest within a reasonable time.
 - b. Use of Information.
 - i. No employee shall directly or indirectly use, disclose, or allow the use of official information obtained through or in connection with the employee’s government employment and not available to the general public for the purpose of furthering the private interest of personal profit of any person, including the employee; or
 - ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through the employee’s government employment.
 - c. Use of government property.

dividing the cost of the gift among two or more persons or entities identified in paragraph 4;

- vi. Food, refreshments, meals, foodstuffs, entertainment, beverages, or interstate travel expenses that are provided in connection with an event where the employee is attending a scheduled meeting of an established or recognized membership organization which holds regular meetings; and
 - vii. Loans from an established financial institution made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in paragraph 4.
- c. There may be circumstances where refusal or reimbursement of a gift such as a lunch or dinner may be awkward and contrary to the larger interests of the State. In such circumstances, the employee is to use the employee's best judgment and disclose the gift, including a description, estimated value, the person or entity providing the gift, and any explanation necessary within fourteen (14) days to the Chief Ethics Officer on the form titled "Gift Prohibition Exception Disclosure" provided by the Department of Finance and Administration for that purpose.

5. Disclosures.

- a. The Commissioner of Finance and Administration shall prepare forms that should be utilized to report the information described in this Order and shall make those forms available to each individual on or before January 1 of each year. Such forms and statements can be located on the Commissioner of Finance and Administration's website and shall be completed and filed by the respective employees as follows:
 - i. The Governor and Governor's Cabinet and Cabinet Level Staff.
 - 1. Pursuant to Tenn. Code Ann. § 2-10-115 and §§ 8-50-501 and -502 the Governor and the Governor's Cabinet and Cabinet level staff shall file annually the "Statement of Disclosure of Interest Form" with the Tennessee Ethics Commission and the Counsel to the Governor on or before April 15th of each year.
 - a. The disclosure shall exceed the statutory requirements of Tenn. Code Ann. §§ 8-50-501 and -502 in one respect. Subsequent to appointment, each covered employee shall file annually the complete form required upon appointment (as set forth in Tenn. Code Ann. § 8-50-501), and may not file a letter simply indicating any, or no, changes from the initial filing as is currently authorized by Tenn. Code Ann. § 8-50-504.

2. The Governor and the Governor's Cabinet and Cabinet level staff shall file annually the "Ethics Policy Compliance Certification and Conflict of Interest Statement" with the Chief Ethics Officer on or before April 15th of each year.
 - ii. All other employees listed on Attachment A of this Order.
 1. All other employees listed on Attachment A of this Order shall file annually the "Statement of Disclosure of Interest Form" and the "Conflict of Interest and Ethics Policy Receipt Statement" with the Chief Ethics Officer on or before April 15th of each year.
6. I appoint the Counsel to the Governor to serve as the Chief Ethics Officer for the Executive Branch charged with administering the provisions of this Order and maintaining all records related to the ethics policy.
7. The Chief Ethics Officer shall convene a meeting of the Chief of Staff, the Commissioner of Finance and Administration, and the Commissioner of Human Resources to take any action necessary or convenient to determine or enforce the ethics policy and address any request for exemptions.
8. When an employee is in doubt as to the proper interpretation of this Order, the employee is expected to seek the advice of the Chief Ethics Officer.
9. The Chief Ethics Officer shall make the disclosures and statements required by this Order available for inspection by the public during normal working hours.
10. This Executive Order is intended only to improve the internal management of the Executive Branch of the State of Tennessee and does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable at law or equity by a party against the State of Tennessee, its agencies or instrumentalities, its officers or employees, or any other person.
11. This Executive Order No. 2 supersedes and rescinds Governor Haslam's Executive Order No. 20, dated August 31, 2012, and all other directives and memoranda concerning ethics policies applicable to the Executive Branch, and all previous executive orders, the terms of which are inconsistent with the terms of this Executive Order No.2, are hereby repealed.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 24th day of January, 2019.

Bruce Lee
GOVERNOR

ATTEST:

Lee Knight
SECRETARY OF STATE



**ATTACHMENT A TO EXECUTIVE ORDER 2
POSITIONS COVERED**

Office of the Governor

Governor
Deputy to the Governor
Chief of Staff
Chief Operating Officer
Counsel to the Governor
Senior Advisor to the Governor
Special Assistant to the Governor
Deputy Counsel to the Governor
Director of External Affairs
Legislative Director
All legislative liaisons
Communications Director
Policy Director

All Executive Branch Departments, Except for Department of Military

Commissioner
All deputy commissioners
All assistant commissioners
All chiefs of staff
All general counsels
All chief operating officers
All chief financial officers and budget directors
All chief medical officers
All senior advisors to the commissioner
All special assistants to the commissioner
All legislative directors or liaisons or the equivalent thereof

Department of Military

Adjutant General
All assistant adjutant generals
Director of TEMA
General Counsel
All legislative directors or liaisons or the equivalent thereof

Division of TennCare

Deputy Commissioner/Director
Deputy Directors
All assistant commissioners
Chief of Staff
Chief Medical Officer
General Counsel
Legislative director or legislative liaisons or the equivalent thereof

Tenn. Op. Atty. Gen. No. 06-034 (Tenn.A.G.), 2006 WL 853271

Office of the Attorney General

State of Tennessee
Opinion No. 06-034
February 14, 2006

Liability of TRICOR Board Members

*1 Patricia Weiland
Chief Executive Officer
Tennessee Rehabilitative Initiative in Correction
240 Great Circle Road, Suite 310
Nashville, TN 37228-1790

QUESTIONS

1. In general, what is the extent of personal liability of members of the Board of the Tennessee Rehabilitative Initiative in Correction (TRICOR) for their acts/omissions as Board members?
2. How would it affect the personal liability of Board members if the Board submits a revised set of personnel practices to the Commissioner of Personnel under the authority of [TCA § 41-22-407\(d\)](#), and these guidelines are approved by the Commissioner?
3. How would it affect the personal liability of Board members if the General Assembly granted the Board statutory authority to develop its own personnel practices without the approval of the Commissioner of the Department of Personnel?

OPINIONS

1. Board members, as state employees, are immune from liability for state law claims within the scope of their office provided they do not act willfully, maliciously, criminally or for personal gain. Depending on the circumstances, Board members may have qualified immunity for federal law claims. If sued personally, board members can request legal representation at the expense of the State of Tennessee and reimbursement of any judgment.
2. Compliance with [Tenn. Code Ann. § 41-22-407\(d\)](#) would not affect this analysis.
3. Receipt of statutory authority to develop TRICOR personnel practices independent of the Commissioner of Personnel would not affect this analysis.

ANALYSIS

For personal liability purposes, members of the TRICOR board are deemed to be state employees. The statutory definition of state employee includes “any person designated by a department or agency head as a participant in a volunteer program authorized by the department or agency head.” [Tenn. Code Ann. § 8-42-101\(3\)\(B\)](#). According to [Tenn. Code Ann. § 41-22-412](#), TRICOR board members are deemed “participant[s] in a volunteer program as referenced in [§ 8-42-101](#).”

As state employees, Board members are immune from state law claims as provided in [Tenn. Code Ann. § 9-8-307\(h\)](#) for acts or omissions within the scope of their duties as Board members. The State of Tennessee immunizes state employees as defined by [Tenn. Code Ann. § 8-42-101\(3\)](#) from liability for acts or omissions within the scope of the officer's or employee's office or employment, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain. [Tenn. Code Ann. § 9-8-307\(h\)](#). Instead, the State of Tennessee assumes liability for their negligence in the Claims Commission subject to certain limitations. [Tenn. Code Ann. § 9-8-307](#).

State employees can be held individually liable for federal law violations as the immunity of [§ 9-8-307\(h\)](#) does not apply. However, depending on the circumstances, qualified immunity from liability may be available. Qualified immunity protects public officials carrying out executive or administrative functions from liability for money damages “insofar as their conduct does not violate clearly established [federal] statutory or constitutional rights of which a reasonable person would have known.” *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct. 2727, 2738, 73 L.Ed.2d 396 (1982). If sued personally, board members can request legal representation at the expense of the State of Tennessee and reimbursement of any judgment. [Tenn. Code Ann. §§ 8-42-103, 9-8-112\(h\)](#).

*2 Compliance with [Tenn. Code Ann. § 41-22-407\(d\)](#) or receipt of statutory authority to develop TRICOR personnel practices would not affect this analysis in the absence of any change to the definition of Board members in [Tenn. Code Ann. § 41-22-412](#) as “participant[s] in a volunteer program as referenced in [§ 8-42-101](#).”

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Deputy Attorney General

Tenn. Op. Atty. Gen. No. 06-034 (Tenn.A.G.), 2006 WL 853271

2

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37219
April 11, 1990
OPINION NO. U90-79

Status Of Petroleum Underground Storage Tank Board Members As State Employees; Application of T.C.A. § 12-4-101 To Personal Or Professional Services Contracts And To Incidental Purchases Of Goods

QUESTIONS

1. Are members of the Tennessee Petroleum Underground Storage Tank Board, created by T.C.A. § 68-53-112(a) (1989 Supp.), considered to be state employees?
2. Do Tennessee statutes governing conflicts of interest with respect to public contracts apply to contracts for personal or professional services as well as to contracts for goods or material items?
3. Do Tennessee statutes governing conflicts of interest prohibit the sale of products from a Tennessee Petroleum Underground Storage Tank Board member's business to the State or to State employees on an incidental basis?

OPINIONS

1. Members of the Tennessee Petroleum Underground Storage Tank Board are state officials and are therefore state employees.
2. All public contracts, including those for personal or professional services as well as for goods or material items, are governed by T.C.A. § 12-4-101 (1989 Supp.).
3. The provisions of T.C.A. § 12-4-101 do not prohibit the incidental sale of products from a Tennessee Petroleum Underground Storage Tank Board member's business to the State or to State employees.

90.9

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April 11, 1990

Mr. Danny Lester
Chairman
Tennessee Petroleum Underground
Storage Tank Board
Doctor's Building
706 Church Street
Nashville, Tennessee 37243

Dear Mr. Lester:

Pursuant to your request, enclosed please find Opinion
No. U90-79. Please feel free to contact this Office regarding
this matter should the need arise.

Sincerely yours,

CHARLES W. BURSON
Attorney General & Reporter

CWB/df

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THE DEPT. OF REVENUE
POST OFFICE

ANALYSIS

1. The Tennessee Petroleum Underground Storage Tank Act (the Act), T.C.A. §§ 68-53-101, et seq. (1989 Supp.), was enacted in 1988 to "provide a coordinated statewide underground storage tank program" for petroleum products and "to enable the state to obtain primacy of the federal¹ petroleum underground storage tank program." T.C.A. §§ 68-53-102(a)&(b). The Tennessee Petroleum Underground Storage Tank Board (the Board) is created by T.C.A. § 68-53-112(a) with nine (9) members appointed by the Governor as set forth therein. Board members receive a per diem "for each day actually and necessarily employed in the discharge of official duties" and travel and other necessary expenses "actually incurred while engaged in the performance of any official duties when so authorized by the board." T.C.A. § 68-53-113(d).

The Board is authorized to promulgate rules and regulations to implement the Act, T.C.A. §§ 68-53-107(f) & -113(b), is directed to establish procedures regarding the protection of proprietary information, T.C.A. § 68-53-108, and is further directed by T.C.A. § 68-53-109 to promulgate rules and regulations governing the annual fees levied for the Petroleum Underground Storage Tank Fund created by T.C.A. § 68-53-110. The Board (along with the Commissioner of the Tennessee Department of Health and Environment) is authorized to suspend a petroleum storage certificate in certain circumstances, T.C.A. § 68-53-120(b), to assess civil penalties for violations of the Act, or rules, regulations, or standards promulgated pursuant thereto, T.C.A. § 68-53-121(a)(1), and to investigate citizen complaints made pursuant to T.C.A. § 68-53-123(a). Additionally, the Board acts as a "board of appeals" as provided by the Act. T.C.A. § 68-53-113(b).²

The question posed does not request an analysis of whether a Board member is a "state employee" in the context of specific circumstances. However, a "state employee" is defined by T.C.A. § 8-42-101(a)(3) for Defense Counsel Commission purposes to include "any person who is a state official." A public officer or official has been defined as "an individual who has been appointed or elected in a manner prescribed by law, who has a designation or title given him by law, and who

¹The federal regulatory program appears as Subchapter IX of the federal Solid Waste Disposal Act, 42 U.S.C. §§ 6991, et seq.

²See T.C.A. §§ 68-53-119(a)&(b); -121(b)(2)&(3).

exercises the functions concerning the public assigned to him by law." Sitton v. Fulton, 566 S.W.2d 887, 889 (Tenn. App. 1978). The members of the Board are appointed pursuant to law to exercise important public functions. The Act itself expressly notes that the Board members discharge and perform "official duties" authorized and required by law. T.C.A. § 68-53-113(d). They are, therefore, "state officials" and thus "state employees."

2. Tennessee Code Annotated § 12-4-101(a)(1) (1989 Supp.) provides, in part, as follows:

It shall not be lawful for any officer, committeeman, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be directly interested in any such contract....

It is further prohibited for any such person "to be indirectly interested in any such contract unless the officer publicly acknowledges his interest." T.C.A. § 12-4-101(b) (1989 Supp.).³

As we observed in Op. Tenn. Atty. Gen. U87-76 (July 28, 1987), at 2, the Court in State ex rel. Abernathy v. Robertson, 5 Tenn. Civ. App. 438, 454 (1914), found that the predecessor statute to T.C.A. § 12-4-101,⁴ "enacted to protect

³With respect to conflicts of interest, we would further note T.C.A. § 68-53-113(e) (1989 Supp.), which provides: "No member of the board shall participate in making any decision on a certificate or upon a case in which the municipality or firm, which that member represents, or by which that member is employed, or in which that member has a direct substantial financial interest, is involved."

⁴The Tennessee statute on conflicts of interest relating to contracts dates from 1870. See, Public Acts of 1869-70, Ch. 92, Section 1. It has been on the books continuously, in one form or another, for ... [one hundred twenty years]. Op. Tenn. Atty. Gen. 85-036 (Feb. 14, 1985), at 3-4.

the public, was to be 'liberally construed so as to effectuate the objects sought,' and that this principle applies "equally as well to the present version of the statute...." By its terms, T.C.A. § 12-4-101 applies, without limitation, to "any" public contracts. In contrast, the provisions of T.C.A. § 12-4-103 prohibit the bidding on, selling, or offering for sale to the State, by state officials or employees, of "merchandise, equipment or material, or similar commodity."⁵

Construing T.C.A. § 12-4-101 liberally, as we are required to do, and contrasting it with other conflict of interest provisions which are limited in scope, such as T.C.A. § 12-4-103, it is apparent that T.C.A. § 12-4-101 applies to all public contracts, including those for personal or professional services. Indeed, many of our prior opinions construing T.C.A. § 12-4-101 have dealt with such personal or professional services contracts. See, e.g., Op. Tenn. Atty. Gen. 88-105 (May 25, 1988) (contracting by legislator/attorney to provide legal services to the State); Op. Tenn. Atty. Gen. 83-336 (Oct. 5, 1983) (contracting by county commissioner to provide school bus service to county board of education); Op. Tenn. Atty. Gen. 83-181 (May 3, 1983) (contracting by county commissioner to provide computer programming services to county hospital).

3. We concluded in Op. Tenn. Atty. Gen. 84-298, supra, at 4, that "the provisions of T.C.A. § 12-4-101 regarding the sale of goods by State officials take precedence over T.C.A. § 12-4-103" and that "State purchases of goods are governed by T.C.A. § 12-4-101." Two criteria must be satisfied before a conflict of interest in violation of T.C.A. § 12-4-101 will be found to exist. As stated in Op. Tenn. Atty. Gen. 83-086 (March 1, 1983), at 2:

Two factors must be present for this statute to apply. First, the officer must have the duty to vote for, let out, overlook, or in any manner superintend the contract. . . . Second, the officer must have a direct or indirect interest in the contract. This interest has been interpreted by the courts as being a pecuniary one. See Savage v. Mynatt, 156 Tenn. 119, 99 S.W. 1043 (1927); Burns v.

⁵As we have observed in Op. Tenn. Atty. Gen. 84-298 (Nov. 7, 1984) (copy attached), at 3, "T.C.A. § 12-4-103 does not apply to . . . [sales of services]."

Nashville, 142 Tenn. 541, 221 S.W. 828
(1919); State ex rel. Abernathy v.
Robertson, 5 Tenn. Civ. App. 438 (1914).

Thus, a threshold determination must be made as to whether the Tennessee Petroleum Underground Storage Tank Board members have any "duty to vote for, let out, overlook, or in any manner superintend" the incidental purchase by the State or by State employees of goods from a member's business.

A similar question was presented in Op. Tenn. Atty. Gen. 84-298, supra. There, a factual situation was analyzed wherein a State legislator owned a non-controlling interest in a corporation selling "photographic supplies" and providing "certain photographic services" which "received non-bid business from walk-in customers from various state agencies for such things as photo finishing, and small quantities of film and other photographic supplies." Id. at 1. We opined that, should the legislator possess a controlling interest and if the purchases were paid for directly by the State, a conflict prohibited by T.C.A. § 12-4-101 would exist. Id. at 4. The underlying rationale for such a conclusion is as follows:

This office has consistently opined that the making of a general appropriation out of which contractual funds are eventually expended makes the appropriating body a superintending agency. Ops. Att. Gen. 84-177 (May 25, 1984); 81-110 (March 23, 1981). A legislator may therefore be said to be superintending state contracts. Therefore, under T.C.A. § 12-4-101(a), a legislator may not be directly interested in any state contract. Under T.C.A. § 12-4-101(b), a legislator may possess an indirect interest in a state contract if he or she publicly acknowledges that interest.

Op. Tenn. Atty. Gen. 85-036 (Feb. 14, 1985), at 4-5. Accord, e.g., Op. Tenn. Atty. Gen. 88-105, supra, at 3.

Such a situation would not, however, appear to result where the business owner is a Board member, as we are aware of no duty or authority provided by the Petroleum Underground Storage Tank Act to Board members to "vote for, let out, overlook, or in any manner superintend" any State contracts. Cf. Op. Tenn. Atty. Gen. 83-222 (May 17, 1983) (T.C.A. § 12-4-101 did not apply to grant of right-of-way to Obion-Forked Deer Basin Authority by non-supervisory,

Page 6

non-executive level employee of the Authority, because the employee had no duty implicated by the statute.).⁶

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⁶In addition, even if the Board member did have a duty implicated by T.C.A. § 12-4-101, no conflict would be presented if the incidental purchases were made by a State employee who, in turn, was reimbursed by the State. See Op. Tenn. Atty. Gen. 84-298, *supra*, at 4 ("[I]f the State employee pays for the items purchased himself and later seeks reimbursement from the State, the transaction does not violate T.C.A. § 12-4-101 because the corporation's contract is with the individual purchasing the items, not with the State.").

OCOEE RIVER RECREATION AND ECONOMIC DEVELOPMENT FUND BOARD

**ACKNOWLEDGEMENT
OF
CONFLICTS OF INTEREST POLICY**

The member has received and read a copy of the Conflicts of Interest Policy adopted October 3, 2018, pursuant to Tennessee Code Annotated section 11-8-105.

Signature of Board Member

Date

Please Print Name

Powers and Duties of the Commissioner and Board

The legislature has given both the Board and the Commissioner certain authority and duties under the Ocoee River Recreation and Economic Development Fund Act.

There is a distinction between the authority of the Board and the authority of the Commissioner.

The Board is authorized to:

- (1) Apply for and receive grants and matching funds to carry out the purposes of the Act;
- (2) Request and receive gifts, contributions, bequests, and donations from public and private sources to effectuate its purpose under the Act;
- (3) Create or establish a nonprofit organization, which is also eligible to request and receive gifts, contributions, bequests, donations, and grants from any legal and appropriate source to effectuate the Fund's purpose;
- (4) Enter into contracts and cooperative agreements with state, federal, and local governments, with private individuals and corporations, and with associations and organizations, as the Board may deem necessary to carry out the purposes of the Act;
- (5) Adopt policies and guidelines for the use of the Fund;
- (6) Make studies and recommendations to the Department of Environment and Conservation concerning the Ocoee River Management Zone; and
- (7) Take any other necessary actions to carry out the Act.

The Board's duties include:

- (1) Meet not less than twice a year;
- (2) Adopt bylaws;
- (3) Adopt and implement a policy related to conflicts of interest;
- (4) Reimburse counties for all costs incurred for the management of the Ocoee River Management Zone determined by the Board to be reasonable; and
- (4) Submit an annual report to the Governor, Speaker of the House of Representatives, Speaker of the Senate, Chair of the Energy, Agriculture, and Natural Resources Committee of the Senate, and the Chair of the Agriculture and Natural Resources Committee of the House of Representatives.

The Commissioner, and thereby the Department, is authorized to:

- (1) Issue permits to commercial operations conducting business within the Ocoee River Management Zone;
- (2) Levy and collect the Ocoee River recreation fee;
- (3) Revoke the permit of any commercial operations conducting business within the Ocoee River Management Zone for failure to comply with the rules promulgated by the Commissioner pursuant to the Act;
- (4) Promulgate rules to effectuate the purposes of this chapter; and
- (5) Expend money from the Fund for costs incurred by the Department of Environment and Conservation associated with the management of the Ocoee River Management Zone and the expenses of the Board and the Department associated with administration of the Fund.

Subject to availability of sufficient moneys in the Fund, the Board and the Commissioner are authorized to use the Fund for:

- (1) Infrastructure upgrades to the Ocoee River Management Zone;
- (2) Tourism promotion and economic development activities that benefit the Ocoee River Management Zone; and
- (3) Other reasonable expenses as determined by the Commissioner or the Board to be necessary to carry out the intent of the Act.

11-8-101. Short title.

This chapter shall be known and may be cited as the "Ocoee River Recreation and Economic Development Fund Act."

11-8-102. Chapter definitions.

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Ocoee River recreation and economic development fund board created pursuant to § 11-8-104;
 - (2) "Commissioner" means the commissioner of environment and conservation or the commissioner's designee;
 - (3) "Department" means the department of environment and conservation;
 - (4) "Development fund" means the Ocoee River recreation and economic development fund;
 - (5) "Nonprofit organization" means an entity that is exempt from federal income taxation pursuant to § 501(c) of the Internal Revenue Code, (26 U.S.C. § 501(c)), as it may be amended;
 - (6) "Ocoee River management zone" means the area of land managed by the department in accordance with agreements with the Tennessee Valley authority and U.S. forest service;
 - (7) "Ocoee River recreation fee" means the fee deposited in the development fund pursuant to the issuance of a permit as authorized in § 11-8-107(a); and
 - (8) "Rafting season" means the time period within a calendar year commencing on the date of the first release of water from the Ocoee River dams for recreational purposes by the Tennessee Valley Authority and concluding on the date of the last release of water from such dams for recreational purposes.
-

11-8-103. Ocoee River recreation and economic development fund -- Purpose of chapter.

(a) The Ocoee River recreation and economic development fund is established as a special agency account in the general fund.

(b) The purpose of this chapter is to support recreational water releases on the Ocoee River, to provide for management of the Ocoee River management zone by Tennessee State Parks, and to encourage the economic growth of the Ocoee River.

(c) All revenue collected from the Ocoee River recreation fee, pursuant to § 11-8-107, shall be deposited into the development fund.

(d) The development fund shall be available to the commissioner for expenditures for the following purposes:

(1) All costs incurred by the department associated with management of the Ocoee River management zone; and

(2) Expenses of the board and the department associated with administration of the development fund.

(e) Subject to availability of sufficient moneys in the development fund beyond those needed for expenditures for the purposes stated in subsection (d), the commissioner and the board may use the development fund for expenditures for the following purposes:

(1) Infrastructure upgrades to the Ocoee River management zone;

(2) Tourism promotion and economic development activities that benefit the Ocoee River management zone; and

(3) Other reasonable expenses as determined by the commissioner or the board to be necessary to carry out the intent of this chapter.

(f) The development fund may accept funds from any public or private entity and may solicit private grants or donations.

(g) Moneys from the development fund shall not be transferred or otherwise revert to the general fund.

(h) The state treasurer shall invest moneys in the development fund, in accordance with § 9-4-603, except as qualified by this chapter. The state treasurer shall hold the development fund separate and apart from all other moneys, funds, and accounts.

(i) Any balance remaining unexpended at the end of a fiscal year in the development fund shall be carried forward into the subsequent fiscal year.

(j) Investment earnings credited to the assets of the development fund, including, but not limited to, interest, shall be carried forward into the subsequent fiscal year.

(k) Moneys received by a nonprofit entity created pursuant to § 11-8-105(a)(3), shall be expended only in accordance with, and for the purposes stated in, this chapter.

11-8-104. Ocoee River recreation and economic development fund board.

(a) On July 1, 2018, there is established the Ocoee River recreation and economic development fund board. The board shall be attached to the department of environment and conservation for administrative purposes, but shall be independent of the department.

(b)

(1) The board shall consist of nine (9) voting members as follows:

(A) The manager of the Hiwassee/Ocoee Scenic River State Park;

(B) The comptroller of the treasury, or the comptroller's designee;

(C) The state treasurer, or the treasurer's designee;

(D) The Polk County mayor;

(E) One (1) member, appointed by the governor, who represents economic development interests;

(F) One (1) member, appointed by the governor, who represents private boater interests; and

(G) Three (3) members, appointed by the governor, who are Ocoee River management zone commercial permit holders.

(2) The following shall serve as ex officio, nonvoting members of the board:

(A) The commissioner of environment and conservation, or the commissioner's designee;

(B) The commissioner of tourism, or the commissioner's designee;

(C) The commissioner of economic and community development, or the commissioner's designee;

(D) The executive director of the wildlife resources agency, or the executive director's designee;

(E) The member of the house of representatives whose legislative district includes the majority of the Ocoee River management zone; and

(F) The member of the senate whose legislative district includes the majority of the Ocoee River management zone.

(c) Appointed board members shall serve four-year, renewable terms. In order that the members of the board serve staggered terms, the initial appointments to the board shall consist of:

(1) One (1) commercial permit holder member to serve a term of two (2) years;

(2) One (1) commercial permit holder member and one (1) private boater member to serve a term of three (3) years; and

(3) One (1) commercial permit holder member and one (1) economic development member to serve a term of four (4) years.

(d) The initial members of the board shall be appointed by June 15, 2018, and take office on July 1, 2018. All subsequent appointments shall be made by June 15, begin on July 1, and expire on June 30 of the appropriate years.

(e) Should a board position become vacant through resignation, removal, or other cause, the governor shall appoint a new member to serve the unexpired term. A board member shall continue to serve on the board after the expiration of the member's term until a new member is appointed.

(f) Seven (7) members of the board shall constitute a quorum for the purpose of conducting business.

(g) Board members shall receive no compensation for their service on the board, but may be reimbursed for those expenses allowed by the comprehensive travel regulations, as promulgated by the department of finance and administration and approved by the attorney general and reporter.

11-8-105. Authority of board -- Meetings -- Bylaws -- Conflicts of interest policy -- Annual report -- Audit of nonprofit entity.

(a) The board is authorized to:

(1) Apply for and receive grants and matching funds to carry out the purposes of this chapter;

(2) Request and receive gifts, contributions, bequests, and donations from public and private sources to effectuate its purpose. Any such funds received shall be deposited into the development fund; provided, that, if any such gifts, contributions, bequests, and donations are not in the form of funds, any income, rents, or proceeds generated from the items received shall be deposited into the development fund;

(3) Create or establish a nonprofit organization, which shall also be eligible to request and receive gifts, contributions, bequests, donations, and grants from any legal and appropriate source to effectuate the development fund's purpose;

(4) Enter into contracts and cooperative agreements with state, federal, and local governments, with private individuals and corporations, and with associations and organizations, as the board may deem necessary to carry out the purposes of this chapter;

(5) Adopt policies and guidelines for the use of the development fund;

(6) Make such studies and recommendations to the department concerning the Ocoee River management zone; and

(7) Take any other necessary actions to carry out this chapter.

(b) The board shall meet not less than twice a year.

(c) The board shall adopt bylaws. The board chairperson and other officers shall be selected as provided in the bylaws.

(d) The board shall adopt and implement a policy related to conflicts of interest, to ensure that all board members avoid any situation that creates an actual or perceived conflict of interest related to the work of the development fund board.

(e) The board shall submit an annual report to the governor, speaker of the house of representatives, speaker of the senate, the chair of the energy, agriculture and natural resources committee of the senate, and the chair of the agriculture and natural resources committee of the house of representatives by June 30 of each year. The report shall include detailed information on the operation and financial status of the development fund and any nonprofit entity created pursuant to subdivision (a)(3).

(f) Any nonprofit entity created pursuant to subdivision (a)(3) shall be subject to an annual audit by the comptroller of the treasury, and the entity shall bear the full costs of the audit.

11-8-106. Reimbursement of management costs incurred by county.

Any county that incurs costs for the management of the Ocoee River management zone shall submit a financial statement and justification for costs incurred to the board. The board shall reimburse such counties for all costs determined by the board to be reasonable.

11-8-107. Permits for commercial operation -- Recreation fee -- Promulgation of rules.

(a) Beginning in the 2019 rafting season, and continuing for each subsequent rafting season, the commissioner is authorized to issue permits to commercial operations conducting business within the Ocoee River management zone.

(b) The commissioner is authorized to levy and collect the Ocoee River recreation fee, which shall be ten percent (10%) of the annual gross revenue generated by commercial activities occurring within the Ocoee River management zone. Revenue generated from the fee shall be deposited in the development fund pursuant to the issuance of a permit as authorized in subsection (a).

(c) The commissioner shall have the authority to revoke the permit of any commercial operations conducting business within the Ocoee River management zone for failure to comply with the rules promulgated by the commissioner pursuant to this chapter. Revocation of permits shall be carried out in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The commissioner is authorized to promulgate rules to effectuate the purposes of this chapter. Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act.

11-8-108. Appropriations for fiscal year 2017-2018.

Any appropriations made in the general appropriations act for fiscal year 2017-2018 and allocated to the development fund shall be held in the fund until all contracts and memorandums of understanding have been entered into by state, federal, and private entities to ensure the continued release of water for recreational purposes on the Ocoee River beyond the year 2018.

OCOEE RIVER RECREATION AND ECONOMIC DEVELOPMENT FUND BOARD
BYLAWS

ARTICLE I

NAME

The name of this body will be the Ocoee River Recreation and Economic Development Fund Board.

ARTICLE II

PURPOSE

Consistent with the statutory authorization of Tennessee Code Annotated title 11, chapter 8, known as the Ocoee River Recreation and Economic Development Fund Act (Act), the purpose of the Ocoee River Recreation and Economic Development Fund Board (Board) is to adopt policies and guidelines for the use of the Ocoee River Recreation and Economic Development Fund (Fund) consistent with the Act, make studies and recommendations to the Department of Environment and Conservation (TDEC) concerning the Ocoee River Management Zone (Zone), apply for and receive grants and matching funds and enter into contracts and cooperative agreements to support water releases on the Ocoee River and encourage economic growth of the Ocoee River, and take other necessary actions to support water releases on the Ocoee River and encourage economic growth of the Ocoee River.

ARTICLE III

MEMBERSHIP

The membership of the Board is as provided in Tennessee Code Annotated section 11-8-104.

ARTICLE IV

MEETINGS

Section 1. The Board will meet at least twice a year. One meeting will be held in Metropolitan Nashville Davidson County in March and one meeting will be held in a location in a county that contains or is adjacent to the Zone in September. Additional meetings may be called by the Chair, by a vote of a majority of the voting members present, or upon written request of a majority of voting members, due notice being given. Additional meetings will be held either in a county that contains or is adjacent to the Zone or in Metropolitan Nashville Davidson County.

Section 2. A voting non-ex officio member that is unable to attend is expected to explain the member's absence by written notice to the Chair, either in advance or, if it is not practicable to do so in advance, as soon as possible following a missed meeting. The minutes of a meeting will record the names of those present, those voting non-ex officio members absent offering an excuse for their absence, and those voting, non-ex officio members absent without an excuse. If a voting non-ex officio member provides a written specific reason for being absent, the member will be automatically granted an excused absence. Two consecutive absences without an excuse will be considered a basis for the Chair to request the Governor to ask for the resignation of such member. Following each meeting, voting non-ex officio members who are deemed to be absent without an excuse will be so notified.

Section 3. The rules contained in the current edition of *Robert's Rules of Order Newly Revised* will govern the Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order that the Board may adopt or the laws of the State of Tennessee. The Chair may appoint a parliamentarian to assist in the conduct of the meetings.

Section 4. As provided in Tennessee Code Annotated section 11-8-104, seven voting members of the Board constitute a quorum for the purpose of conducting business. Nonvoting members may not make or second motions.

ARTICLE V

OFFICERS

Section 1. The officers of the Board will be the Chair and a Vice Chair. Each officer will be elected by the Board so as to take office in October of even-numbered years. The term of each office is two years and an officer may be re-elected for two additional two-year terms, which includes serving an unexpired term after a vacancy. After a term of not serving in an office, a former officer may be re-elected to the same office for no more than two additional terms. In the event of a vacancy in these offices, the Board will vote at its next meeting to fill the unexpired term created by such vacancy. Nonvoting members may serve as an officer.

Section 2. The Vice Chair will preside in the absence of the Chair at Board meetings. The Vice Chair will perform other duties as may be assigned by the Chair or requested by the Board.

If the Vice Chair is absent, the member senior in service will serve, or such other member chosen by the quorum present.

Section 3. The Chair will preside at all the meetings of the Board. TDEC will be responsible for keeping an accurate record of all proceedings of the Board and for distributing copies of these records to all members.

ARTICLE VI

STAFF

Section 1. As provided in Tennessee Code Annotated section 11-8-104, administrative support for the Board will be provided by TDEC.

Section 2. A Memorandum of Agreement between the Board and TDEC will govern the terms of the administrative support provided by TDEC.

ARTICLE VII

CONFLICTS OF INTEREST POLICY

Section 1. All members of the Board receive and accept the responsibilities of public trust with their appointments. As provided in Tennessee Code Annotated, section 11-8-105, the Board adopts this article as a policy related to conflicts of interest, to ensure that all members avoid any situation that creates an actual or perceived conflict of interest related to the work of the Board.

Section 2. Each member shall submit to TDEC for administrative purposes a Conflicts of Interest Policy Acknowledgement Form upon appointment and annually no later than each October meeting.

Section 3.

- a. Each member shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - i. Using public office for private gain;
 - ii. Losing complete independence or impartiality;
 - iii. Making a government decision outside of official channels; or
 - iv. Affecting adversely the confidence of the public in the integrity of the government.
- b. No member may, directly or indirectly:
 - i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the Board and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the member; or
 - ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through the member's appointment to the Board.
- c. No member may make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is *de minimis* or is lawfully available to the general public.
- d. Each member shall avoid all known conflicts of interest, and to the extent the member becomes aware of a conflict of interest in connection with any matter brought before the Board, the member shall disclose the conflict to the other

members and will further recuse from participating in any consideration of the matter.

e. No member may participate in decisions or actions that benefit the member, the member's immediate family, or the member's business differently than any other person similarly situated or any other matter in which the member's participation may create an appearance of bias or impropriety.

f. When a member is in doubt as to the proper interpretation of this article, the member is expected to seek the advice of the appointing authority or appropriate legal counsel, as applicable.

ARTICLE VIII

AMENDMENTS

These bylaws may be amended at any meeting of the Board by a two-thirds vote of voting members present, provided that written notice of any proposed amendment will be provided to each member at least three weeks prior to the meeting at which the amendment is to be considered.

Highlights of General Statutes Applicable to All Boards

I. Public Records Title 10, Chapter 7, Part 5

All state, county, and municipal governmental records are open, unless there is an exception in the law. The public records statute is different from the federal Freedom of Information Act (FOIA). Records are open for personal inspection by any citizen of Tennessee. Records do not include the device used to create or store the public record.

II. Sunshine Law Title 8, Chapter 44, Part 1

All meetings of multimember bodies are open and notice must be given. Minutes must be kept. Meetings are prohibited without notice, including those of a subset of the board. This statute also pertains to deliberations and voting.

III. Sunset Law Title 4, Chapter 29

All entities of state government terminate, unless extended by the General Assembly. The Office of the Comptroller of the Treasury conducts a performance audit of larger entities in the year prior to sunset. Legislation is required for setting the term of extension for a particular board or group extension.

Excerpts of General Statutes Applicable to All Boards

I. Public Records § 10-7-503

(a)(1)(A)(i) As used in this part and title 8, chapter 4, part 6, “public record or records” or “state record or records” 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 any governmental entity.

(a)(1)(A)(ii) “Public record or records” or “state record or records” does not include the device or equipment, including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment, that may have been used to create or store a public record or state record.

(a)(2)(A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(a)(2)(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven business days:

(a)(2)(B)(i) Make the information available to the requestor;

(a)(2)(B)(ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or

(a)(2)(B)(iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

II. Sunshine Law § 8-44-102

(a) All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.

(b)(1) “Governing body” means:

(b)(1)(A) The members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration and also means a private nonprofit community organization eligible to receive funds from the

community services block grant program under 42 U.S.C. §§ 9901 - 9926. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times;

(b)(2) "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program.

(c) Nothing in this section shall be construed as to require a chance meeting of two or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.

III. Sunshine Law § 8-44-103

(a) NOTICE OF REGULAR MEETINGS. Any such governmental body which holds a meeting previously scheduled by statute, ordinance, or resolution shall give adequate public notice of such meeting.

(b) NOTICE OF SPECIAL MEETINGS. Any such governmental body which holds a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law, shall give adequate public notice of such meeting.

(c) The notice requirements of this part are in addition to, and not in substitution of, any other notice required by law.

IV. Sunshine Law § 8-44-105

Any action taken at a meeting in violation of this part shall be void and of no effect; provided, that this nullification of actions taken at such meetings shall not apply to any commitment, otherwise legal, affecting the public debt of the entity concerned.

V. Sunshine Law § 8-44-108

(b)(1) A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law; provided, that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting.

(b)(2) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a

recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.

(b)(3) If a physical quorum is not present at the location of a meeting of a governing body other than a state debt issuer, the governing body other than a state debt issuer must file such determination of necessity, including the recitation of the facts and circumstances on which it was based, with the office of secretary of state no later than two working days after the meeting. The secretary of state shall report, no less than annually, to the general assembly as to the filings of the determinations of necessity. This subdivision (b)(3) shall not apply to the board of regents, to the board of trustees of the University of Tennessee or to the Tennessee higher education commission.

(4) Nothing in this section shall prohibit a governing body from complying with § 8-44-109.

(c)(1) Any meeting held pursuant to the terms of this section shall comply with the requirements of the Open Meetings Law, codified in this part, and shall not circumvent the spirit or requirements of that law.

(c)(2) Notices required by the Open Meetings Law, or any other notice required by law, shall state that the meeting will be conducted permitting participation by electronic or other means of communication.

(c)(3) Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

(c)(4) Any member of a governing body not physically present at a meeting shall be provided, before the meeting, with any documents that will be discussed at the meeting, with substantially the same content as those documents actually presented.

(c)(5) All votes taken during a meeting held pursuant to the terms of this section shall be by roll call vote.

(c)(6) A member participating in a meeting by this means is deemed to be present in person at the meeting for purposes of voting, but not for purposes of determining per diem eligibility. However, a member may be reimbursed expenses of such electronic communication or other means of participation.

Board Member Travel Overview

Reimbursement of travel expenses for board members traveling to and from official board meetings must be in accordance with the State of Tennessee, *Department of Finance and Administration Comprehensive Travel Regulations (Policy 8)*.

All claims for travel reimbursement must be made on the **State of Tennessee Claim for Travel Expenses form**.

Current Travel Regulations and Reimbursement Rates can be found at: <https://www.teamtn.gov/finance/travel-information.html>

Mileage Reimbursement:

- Reimbursement for the use of personally owned cars is at the standard mileage rate, as reflected in the Reimbursement Rate Schedule (currently \$0.47 per mile).

Meals:

- Per Diem rates, as reflected in the Reimbursement Rate Schedule, include a fixed allowance for meals and incidentals.
- No itemization of expenses is required.
- No receipts are required.
- Reimbursement for meals and incidentals for the day of departure and day of return is three-fourths of the appropriate per diem rate.
- Reimbursement of meals is allowed only when overnight travel is involved.

Parking:

- No receipt is required for daily parking fee of \$8.00 or less.
- Receipt is required for daily parking fee greater than \$8.00.

Lodging:

- Will be reimbursed for actual lodging costs plus tax up to the applicable maximum amounts listed on the Reimbursement Rate Schedule.
- Receipts are required.
- Receipts must itemize room charges and taxes by date.

Department of Finance and Administration
Policy 8 - Comprehensive Travel Regulations
(Revised October, 2015)

Introduction

1. It is the intent of these regulations that employees not suffer additional cost as a result of travel incurred to carry out assigned duties. Employees shall be reimbursed for such expenses subject to the limitations provided in this travel policy and the accompanying Reimbursement Rate Schedule.
2. When traveling, state employees should be as conservative as circumstances permit. The lower cost should be selected whenever practical. Reimbursement for travel will be based upon the most direct or expeditious route possible. Employees traveling by an indirect route must assume any extra expense incurred. It is the responsibility of the employee to be familiar with and adhere to established state travel policies. Deliberate disregard of these regulations while traveling on state business or filing of an intentionally misleading or fraudulent travel claim is grounds for disciplinary action including termination of employment.
3. The Commissioner of Finance & Administration will establish and maintain the maximum rates of reimbursement.

Travel Authorization

4. Travel may not be undertaken unless it is authorized in advance by proper authority. Approved state travel is the basis for reimbursement in accordance with these provisions. The employee is considered to be on official travel status, and eligible for reimbursement, at the time of departure from his/her official station or residence, whichever is applicable. When completing an Edison travel authorization, the destination should always be entered under "default location," to ensure appropriate work-flow for the authorization form.
5. The department head is authorized to approve all travel for state business, including meeting expenses, registration fees for conferences or seminars, etc. The Department head is responsible for determining the most cost effective means of meeting the State's business objective considering the use of state meeting rooms, park convention centers, video conferencing, etc. The use of virtual meetings as an alternative to holding a conference or meeting in real life should be actively encouraged as a cost-savings tool. Video conferencing is a green technology, allowing departments to mitigate energy use by dramatically reducing the need to travel.

6. The Commissioner of Finance and Administration, through the Division of Accounts, shall approve exceptions to the travel policy. Department heads are authorized to approve any necessary travel by a non-state employee. Such travel should be conducted and reimbursed in accordance with these Travel Regulations. Department heads are authorized to approve occasional exceptions to lodging and meal rates when necessity requires and reasonable alternatives are not available (i.e. lodging unavailable at CONUS rates).

7. Approval for out-of-state employee travel is processed through the Edison Travel Authorization workflow. Once approved by the department head, Executive Level Travel Authorizations for out-of-state travel will be routed to the Department of Finance and Administration for review and approval. During periods of extreme budget stress, additional executive level review may occur.

8. The Commissioner of Finance and Administration retains the authority to change the approval process as circumstances require.

9. If an employee travels into another state and back in the same day and such travel is less than fifty (50) miles one way, such travel will be considered in-state for approval and reimbursement purposes.

Official Station

10. The department head is responsible for establishing the official station of the employee. This is typically the location from which the employee performs the major portion of his/her assigned duties. The work station closest to an employee's residence should be designated as the official station for employees with multiple work stations. If an employee works predominantly from a home residence and reports to an office or other station less than twice a week, the employee's official station should be the home residence. Under unusual situations, the department head may designate other locations as the employee's official station.

11. The residence of the employee usually becomes the official station for an employee required to be on call at times other than the employee's normal working hours (i.e. nights or weekends). Employees working overtime on weekends are not normally eligible for reimbursement.

12. In the event that an employee is temporarily reassigned to a work location other than his usual official station, that location shall become the employee's official station. The employee will not be eligible for reimbursement unless he/she can demonstrate that by commuting to the temporary location he/she has incurred additional expense over the cost of the commute to his/her usual official station.

Reimbursement Procedures

13. Submission of an expense report by an employee or his proxy initiates the travel reimbursement process with approvals handled electronically through the Edison role-mapping structure. Employees must authorize the set-up of a proxy in Edison prior to the submission of an initial expense claim by a proxy. Proxy-submitted travel claims must include the attached paper version of the travel claim, signed and dated by the employee, along with appropriate receipts.

14. Employees should submit claims for reimbursement through the Edison system as soon as possible following completion of travel. Employees on regular travel status should consider filing an expense report weekly or biweekly. Departments and agencies should review expense reports as rapidly as possible to ensure prompt payment to their employees. In accordance with Internal Revenue Service guidance (IRS Publication 463), reimbursement paid sixty (60) days after the date of travel may be considered as taxable income.

Corporate Charge Cards

15. Employees who routinely travel on state business and meet the eligibility requirements may apply for a corporate charge card through their department's fiscal office. Charges made on these charge cards are the liability of the employee.

Travel Advances

16. Travel advances are available only under extraordinary circumstances. Advances are subject to the approval of the Division of Accounts and will be allowed (a) only if the employee can justify extraordinary circumstances that warrant an advance (for example, an employee is ineligible for a corporate travel card), and (b) the employee has provided Accounts with a payroll deduction authorization form which will allow the state to recover the advance from any salary owed the employee in the event of termination of employment or failure to submit an expense report.

17. The amount of the travel advance will be based on eighty percent (80%) of the total estimated cost of travel. Advances will not be issued for less than one hundred dollars (\$100). Immediately upon return the employee must submit an expense report regardless of whether he/she owes advance moneys back to the state or is due additional reimbursement.

Honorariums

18. For those employees who receive honorariums for appearing at meetings while on official state business, the employee may, at his/her option, accept the honorarium as full payment for travel expenses including airfare, or choose to surrender the honorarium to the State, and be reimbursed in accordance with established travel policy.

Air Travel

19. Departments may set their own policy as to how their employees may make reservations for air travel: either through the state travel agency designated by the Department of Finance and Administration, directly through an on-line booking service, or through either option at the choice of the employee. Advantage of discount fares and advance booking should be taken whenever practical, and fares should not exceed the regular tourist or coach fares offered the general public for both domestic and international flights. Reservations made through the state travel agency offer employees the benefit of 1-800 service for after-hour changes, automatic departmental billing for airfare charges, management of unused tickets, and common carrier insurance. When making reservations directly through an on-line booking service, a print-out of the booking must accompany the employee's expense claim. Employees who have unused tickets that were booked on-line should inform their departmental fiscal office and make use of such tickets if additional travel is required.

Taxi Fares - Airport Transportation

20. Reasonable taxi fares are allowed from airports. It is expected that bus, limousine or light rail service to or from airports will be used when available and practical. In traveling between hotels or other lodging and meeting or conference sites, reasonable taxi fares will be allowed. No receipt is required for reimbursement of reasonable taxi fares.

State Contracted Vehicles and Rental Cars

21. The Department of General Services may provide a contract or contracts providing vehicles to state employees. Employees are expected to make use of these contracts when available, and to follow guidance provided by the Department of General Services for the use of these vehicles and for the payment of fuel, maintenance, and repairs. State owned and state-contracted vehicles should be used only for official business. Only properly authorized State of Tennessee employees may operate a State vehicle or state-contracted vehicle, and employees must possess a valid driver's license for the type of vehicle being operated. Employees should follow the instructions provided with the vehicle in the event of breakdown, emergency repairs, etc. Reimbursement for such expenses will be made when necessary and must be accompanied by proper receipt itemizing the services.

22. Car rental for out-of-state travel can be made through contracts with the Department of General Services or through the State Travel Agency. Reservations made through the General Services contract can ensure travelers of any negotiated rates. Car rental should be used only when necessary, i.e. when other forms of transportation such as hotel shuttle service are inconvenient, expensive, or not available. Charges for insurance for rental automobiles are not reimbursable costs. The State is self-insured for certain liability through the Department of Treasury, Division of Claims Administration. Charges for car rental and fuel receipts should be scanned and attached to the Edison Expense report for reimbursement.

Travel - Personally-Owned Automobile

23. Department head authorization is required for the use of personally owned automobiles in the daily performance of duties. Unnecessary expenses which result from the use of an automobile for reasons of personal convenience will not be allowed.

24. Reimbursement for the use of personally owned cars is at the standard mileage rate. Reasonable tolls and ferry fees will be allowed when necessary; no receipt is required for reimbursement.

25. Only mileage on official state business may be claimed for reimbursement. Reasonable vicinity mileage will be allowed. The Edison system will automatically calculate point to point mileage. If the point to point mileage calculation by Edison appears incorrect or excessive, employees may make changes to the expense report in accordance with procedures established by the Division of Accounts.

26. Procedures for calculating mileage are based on the fact that the State is prohibited from reimbursing employees for normal commuting mileage.

a) If an employee begins or ends a trip at his/her official station, reimbursable mileage will be the mileage from the official station to the destination.

b) If work is performed by an employee in route to or from his/her official station, reimbursable mileage is computed by deducting the employee's normal commuting mileage from the actual mileage driven.

c) If an employee begins or ends his/her trip at his/her residence without stopping at his/her official station, reimbursable mileage will be the lesser of the mileage from the employee's residence to his/her destination or his/her official station to the destination. On weekends and holidays, the employee may typically be reimbursed for actual mileage from his/her residence to the destination.

d) If an employee travels between destinations without returning to his/her official station or his/her residence, reimbursable mileage is the actual mileage between those destinations.

Parking

27. Charges for routine parking while on travel status will be reimbursed. Receipts are required if the parking charge exceeds the allowance stated in the rate schedule. Charges for routine parking at the official work station will not be reimbursed. Long-term airport parking is reimbursed at the standard rate offered by the airport's long-term or economy parking facility.

28. If travel is by air the employee will be reimbursed for the lesser of: (a) the allowable mileage reimbursement for one round trip and long-term airport parking; or (b) the cost of one round trip taxi fare from the employee's official work station (or residence on weekends/evenings). The employee may also be allowed the appropriate mileage reimbursement for two round trips from home when driven by a friend or relative, at the employee's option.

Promotional Materials and Airline Baggage Fees

29. Fees for the handling of promotional materials or equipment will be allowed up to the maximum indicated in the Reimbursement Rate Schedule. Airline baggage fees for up to two (2) bags will be reimbursed.

Lodging

30. The employee will be reimbursed for actual lodging costs plus tax incurred up to the applicable maximum amounts as indicated on the Reimbursement Rate Schedule. This schedule includes state parks. Lodging receipts are required and must itemize room charges and taxes by date. If a convention rate exceeds the maximum reimbursement rate and is documented by a convention brochure or registration form, a higher reimbursement rate will be allowed. Miscellaneous lodging expenses such as energy or utility surcharges are fully reimbursable and should be added to the lodging cost, in manner similar to local hotel or sales taxes.

31. The maximum reimbursement rates for out-of-state travel are the same as those maintained by the U.S. General Services Administration for federal employees within the continental United States (CONUS). The CONUS list, available on the General Services Administration web site, contains a standard reimbursement rate for lodging and meals and incidentals, and several pages of exceptions. Most destinations for out-of-state travel fall within the list of exceptions.

32. If a room is shared with other than a state employee, actual costs subject to the applicable maximum rate in the reimbursement rate schedule apply. In the event of double occupancy for state employees on official travel, both employees should attach an explanation to his/her travel claim detailing dates and other employees with whom the room was shared. The lodging cost may be claimed by the employee who incurred the cost, or one half the double occupancy charges may be allowable for each employee.

Per Diem Rates for Meals and Incidentals

33. The maximum per diem rates include a fixed allowance for meals and incidental expenses (M & I). The M & I rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. Incidentals are intended to include miscellaneous costs associated with travel such as tips for baggage handling, phone calls to home, etc. Reimbursement is made only when overnight travel is required. Generally, the applicable maximum per diem rate for each calendar day of travel shall be determined by the location of lodging for the traveler.

34. The per diem rates for meals and incidentals are established on the Reimbursement Rate Schedule. The M & I rates for out-of-state travel are the same as those for federal employees, and are available on the General Services Administration's web site. As with lodging, there is a standard rate for the continental United States (CONUS), and a list of exceptions. Please note that these rates may change effective October 1 of each year.

35. Reimbursement for meals and incidentals for the day of departure shall be three-fourths of the appropriate M & I rate (either the in-state rate or CONUS rate for out-of-state travel) at the rate prescribed for the lodging location. Reimbursement for M & I for the day of return shall be three-fourths of the M & I rate applicable to the preceding calendar day. Note that the Edison System defaults to the standard CONUS meal rate for a day, and the employee must enter the three-fourths rate for the day of departure and day of return. To assist in this calculation, a table indicating three-fourths of the per diem rate accompanies the Standard Reimbursement Rates at the end of this document.

36. Employees who receive maintenance in the form of meals provided by their employing agency at their official work station shall be eligible for reimbursement if they are away from their official work station on state business and do not receive the maintenance meal.

37. Reimbursement for a single meal (or meals) for employees on one-day travel status with no overnight stay is not permitted. While on travel status if more than a single full meal is provided as part of a state-sponsored training session or conference, the employee should deduct the cost of those meals from the per diem for that day, using the schedule provided below. This also applies to the day of departure and the day of return. In those instances where all meals are provided, only the incidental rate should be claimed. For

non-state sponsored training or conferences the employee is not required to deduct from the per diem the cost of a meal or meals provided through a conference fee. A schedule indicating the allocation for the breakfast, lunch and dinner meals accompanies the Standard Reimbursement Rates at the end of this document.

Non-Standard Shift Hours

38. Employees who are scheduled to work nonstandard shifts (official work hours begin before 7:00 a.m. or end after 5:30 p.m.) and are eligible for meal reimbursement shall be reimbursed at one-third (1/3) of the daily M & I rate for each reimbursable meal. Total reimbursement is limited to the full day M & I allowance listed in the Reimbursement Rate Schedule.

Extended Travel

39. Extended travel status applies to those employees on continuous travel for a period of more than two (2) weeks. Employees on extended travel status may elect to rent an apartment rather than live in a motel or hotel. While this option is left to the discretion of the employee and the employing department, department head approval is required prior to renting an apartment. The monthly rental allowance shall include rental furniture and payment of utilities, and shall not exceed the standard CONUS rate for thirty (30) days.

40. Employees on extended travel status working in-state are authorized to travel to and from his/her home station once a week at the mileage rate for personal vehicles. Those employees on extended travel status working out-of-state are authorized to take one trip to the home station by common carrier once every two (2) weeks. Employees authorized to use personal automobiles in out-of-state travel may be reimbursed at the personal mileage rate. The employee may also be reimbursed for local transportation to conduct state business.

Telecommunications Costs While on Travel Status

41. Local phone calls, fax charges and long distance calls for state business will be reimbursed. Employees must provide a statement furnishing the date, name and location called for long distance calls and fax charges. Hotel Internet access charges may be reimbursed when approved in advance and when it is anticipated the employee will be working from a hotel room on official state business.

42. Department heads may authorize an employee to use his personal cellular phone in conducting state business. Authorized employees shall be reimbursed for any additional cost incurred in using their personal cellular phones on official business. An itemized statement indicating the date, name, location, and cost of each call plus a billing

statement indicating that additional cost was incurred above the standard monthly charge is required for reimbursement. In some instances employees may be able to obtain lower cellular rates by purchasing a package that offers lower per minute rates for a higher threshold of minutes per month. Reimbursement is acceptable for such billing packages subject to review by fiscal officers. In such situations, the state would typically reimburse the employee for a portion of the monthly package used for business calls.

Exceptions

43. The Commissioner of Finance and Administration shall have the authority to grant exception from any part or all of these rules and regulations when deemed appropriate for an employee or group of employees on official state travel. Approved exceptions other than those for individual trips shall be maintained in a central file by the Department of Finance and Administration. Policy exceptions, which have state-wide implications, shall be approved through established procedures in accordance with the provisions of T.C.A. § 4-3-1008(3).

Statutory Authority

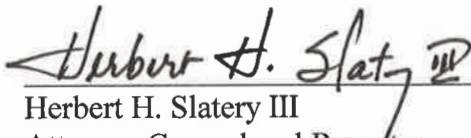
44. In accordance with the provisions of T.C.A. § 4-3-1008(3), these travel regulations, effective when signed, supersede and rescind all previous promulgated travel regulations and shall remain in effect until subsequently modified or rescinded.



Larry B Martin, Commissioner
Department of Finance and Administration.

9/21/15
Date

APPROVED:



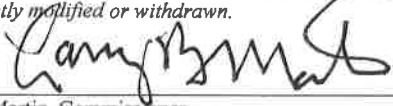
Herbert H. Slatery III
Attorney General and Reporter

10/30/2015
Date

**Per Diem Rates-
Three-Fourths Calculations
For Partial Day of Travel
Effective October 1, 2017**

Total	First & Last Day of Travel
\$51	\$38.25
\$54	\$40.50
\$59	\$44.25
\$64	\$48.00
\$69	\$51.75
\$74	\$55.50

In accordance with the provisions of TCA 4-3-1-8 (3) and the Comprehensive Travel Regulations, the above travel rates supersede and rescind all previous promulgated travel rates. These rates are effective upon approval and shall remain in effect until subsequently modified or withdrawn.



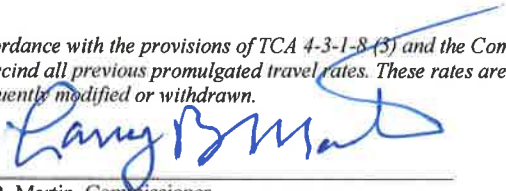
Larry B. Martin, Commissioner
Department of Finance and Administration

Date 9/12/17

**Per Diem Rates-
Three-Fourths Calculations
For Partial Day of Travel
Effective October 1, 2018**

Total	First & Last Day of Travel
\$55	\$41.25
\$56	\$42.00
\$61	\$45.75
\$66	\$49.50
\$71	\$53.25
\$76	\$57.00

In accordance with the provisions of TCA 4-3-1-8 (3) and the Comprehensive Travel Regulations, the above travel rates supersede and rescind all previous promulgated travel rates. These rates are effective upon approval and shall remain in effect until subsequently modified or withdrawn.



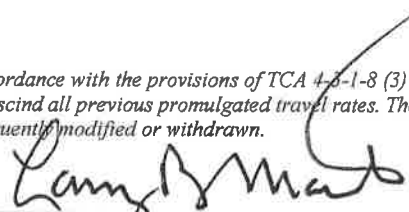
Larry B. Martin, Commissioner
Department of Finance and Administration

9/4/19
Date

**Per Diem Rates-
Three-Fourths Calculations
For Partial Day of Travel
Effective October 1, 2017**

Total	First & Last Day of Travel
\$51	\$38.25
\$54	\$40.50
\$59	\$44.25
\$64	\$48.00
\$69	\$51.75
\$74	\$55.50

In accordance with the provisions of TCA 4-6-1-8 (3) and the Comprehensive Travel Regulations, the above travel rates supersede and rescind all previous promulgated travel rates. These rates are effective upon approval and shall remain in effect until subsequently modified or withdrawn.




Larry B. Martin, Commissioner
Department of Finance and Administration

9/12/17
Date

**Per Diem Rates-
Three-Fourths Calculations
For Partial Day of Travel
Effective October 1, 2018**

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In accordance with the provisions of TCA 4-3-1-8 (3) and the Comprehensive Travel Regulations, the above travel rates supersede and rescind all previous promulgated travel rates. These rates are effective upon approval and shall remain in effect until subsequently modified or withdrawn.



Larry B. Martin, Commissioner
Department of Finance and Administration

9/4/18

Date

The Department of Finance and Administration
Special Travel Regulation One
Travel to Promote the State of Tennessee

Unless specifically addressed by the provisions contained herein, the Comprehensive Travel Regulations shall apply to all expenses or travel incurred under this regulation.

1. The Commissioner of the Department of Agriculture, the Commissioner of the Department of Economic and Community Development and the Commissioner of the Department of Tourist Development may authorize a special travel status that will allow the reimbursement of expenses incurred to promote the State of Tennessee.
2. This may include expenses incurred by an employee in traveling with a prospect or when the employee is involved in a business activity directly related to the department's mission during which the employee is required to dine with or accompany a prospect's representative, or those persons who can make a direct contribution to the marketing, promotion, or economic development of the State.
3. Covered expenses may also include costs incurred at the official station of an employee at a time when the employee is working with a prospect or when the employee is involved in a business activity directly related to the department's mission.
4. Covered expenses may also include entertainment expenses for business and community leaders for the purpose of state business. These include but are not limited to meals, refreshments, hors' d'oeuvres, floral arrangements, and gratuities provided by a hotel, motel caterer, or other establishment providing similar services.
5. The determination of such expenses shall be made by the Commissioner of the respective department.
6. Business class airfare is permitted for travel to another continent when the traveler is expected to work on the day of arrival.
7. Expenses or travel incurred to promote the State of Tennessee are not subject to the limits established in the Reimbursement Rate Schedule. Reimbursement for exception expenses shall be allowed only if authorized in advance by proper authority. Receipts are required for all expenses reimbursed under this specific regulation. Reimbursements for exception expenses are limited to the time during which appropriate business activities occur. Meetings when state employees are working together exclusively do not qualify under this special regulation.
8. State officials engaged in business activities to promote the State should be mindful in these situations of their obligations under Tennessee State ethics laws.

Statutory Authority

9. In accordance with the provisions of T.C.A. § 4-3-1008(3), this travel exception, effective when signed, supersedes and rescinds all previously promulgated exceptions of this title and shall remain in effect until subsequently modified or rescinded.



Mark A. Emkes, Commissioner
Department of Finance and Administration

8/20/12

Date

APPROVED:



Robert E. Cooper, Jr.
Attorney General and Reporter

8-24-12

Date

The Department of Finance and Administration
Special Travel Regulation Two
Travel in the Company of the Governor

Unless specifically addressed by the provisions contained herein, the Comprehensive Travel Regulations shall apply to all expenses or travel incurred under this regulation.

1. Employees traveling in the company of the Governor or those persons directed in writing by the Governor to represent that office are hereby granted special travel status. Expenses or travel incurred shall not be subject to the limits set forth in the Reimbursement Rate Schedule.
2. This travel regulation shall not apply to normal daily expenses incurred at official duty stations unless accompanying the Governor to official meetings, luncheons, conventions, conferences, etc.
3. Expenses shall include all costs incurred by the Governor and any others traveling as members of the Governor's official party except for those costs of a purely personal nature such as laundry, valet service, theater, recreation, etc.
4. Each employee shall submit a claim for reimbursement detailing individual expense. When group expenses occur, the security personnel assigned to the Governor may claim reimbursement for the total group and identify on the claim persons incurring such expense.
5. In accordance with the provisions of TCA -4-3-1008(3), this travel exception, effective August 1, 1998, supersedes and rescinds all previous promulgated exceptions regarding travel in the company of the Governor, and shall remain in effect until subsequently modified or rescinded.

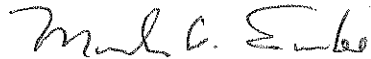
The Department of Finance and Administration
Special Travel Regulation Three
Travel by Department Heads

Unless specifically addressed by the provisions contained herein, the Comprehensive Travel Regulations shall apply to all expenses or travel incurred under this regulation.

1. Special Travel status is authorized for department heads, for state employees traveling in the company of department heads, or state employees representing a department head.
2. The Commissioner of Finance and Administration in consultation with the Comptroller of the Treasury shall designate persons as department heads for the purpose of traveling under the provisions of this regulation.
3. In addition, the following persons may, in consultation with the Comptroller of the Treasury, designate persons to travel under the provisions of this regulation: the Attorney General, the Chairpersons of the Senate and House Finance, Ways and Means Committees, the Chairpersons of the Fiscal Review Committee, and the Chief Justice of the Supreme Court.
4. The Commissioner of Finance and Administration has established a separate schedule for the maximum rate of reimbursement for department heads to accompany this regulation.
5. First class travel on common carrier shall be allowed at the option of the department head when accompanying others not employed by the State who are traveling in first class accommodations.
6. Department heads are authorized to hold group breakfasts, luncheons, or dinners for business purposes. Such events should be occasioned by a meeting of long duration or by circumstances where it is more feasible to provide such meals than to recess the meeting. Expenses incurred under this regulation may be reimbursed to the sponsoring department head or charged directly to the department. Expenses for meals for employees occasioned by meetings called by the department head are allowed. A receipt or other satisfactory evidence of payment is required for reimbursement.
7. Department heads are authorized to receive reimbursement of meals and related costs when acting as hosts to guests of the State or other official business functions. Department heads may be reimbursed for the actual expenses incurred. Authority granted by this item may be delegated by the department head to members of the department head's staff provided it is in writing and accompanies any claim for reimbursement, along with appropriate receipts. The propriety of such expenses shall be left solely to the discretion of the department head.

Statutory Authority

8. In accordance with the provisions of TCA § 4-3-1008 (3), this travel exception, effective when signed, supersedes and rescinds all previous promulgated travel exceptions concerning travel by department heads and shall remain in effect until subsequently modified or rescinded.



Mark. A. Emkes, Commissioner
Department of Finance and Administration

8/20/12

Date

APPROVED:



Robert E. Cooper, Jr.
Attorney General and Reporter

8-24-12

Date

The Department of Finance and Administration
Special Travel Regulation Four
Travel by Board and Commission Members

Unless specifically addressed by the provisions contained herein, the Comprehensive Travel Regulations shall apply to all expenses or travel incurred under this regulation.

1. Special travel status is authorized for members of Boards, Authorities, Commissions or Committees of the Executive Branch, and when designated, by the appropriate authority through law, rule, regulation, and/or policy, to those of the Judicial and Legislative Branches (excluding elected officials of the Judicial and Legislative Branches). The provisions of this travel status are also applicable to non-state members.
2. The Commissioner of Finance and Administration has established a maximum of reimbursement authorized by this special travel regulation for board and commission members.
3. Members of boards and commissions are eligible for reimbursement regardless of any per diem paid to said member unless stated otherwise in law, rule, regulation and/or policy.
4. Reimbursement for all travel shall be claimed in accordance with the Comprehensive Travel Regulations.
5. To comply with the provisions of TCA 4-3-1—8(3), departments should report quarterly out-of-state travel by board and commission members to the Department of Finance and Administration, Budget Office.
6. In accordance with the provisions of TCA 4-3-1008(3), these travel regulations, effective August 1, 1998, supersede and rescind all previous promulgated travel exceptions concerning board and commission members, and shall remain in effect until subsequently modified or rescinded.

The Department of Finance and Administration
Special Travel Regulation Five
Pilot and Air Crew Travel

Unless specifically addressed by the provisions contained herein, the Comprehensive Travel Regulations shall apply to all expenses or travel incurred under this regulation.

1. Persons serving as pilot, co-pilot or crew member, including maintenance personnel serving in any of these capacities, on state-owned or leased aircraft used for the purpose of transporting passengers on state business are granted travel authorization without regard to the provisions Sections 4 through 6 of the Comprehensive Travel Regulations.
2. Expenses or travel incurred under this provision are not subject to the reimbursement limits set forth in the Reimbursement Rate Schedule.
3. Reimbursement for these expenses shall be limited to the time during which the state duties are being performed and shall not apply to other travel. Receipts or other satisfactory evidence of payment are required for reimbursement.
4. Employees shall be considered on travel status one hour before actual takeoff and one hour after actual landing.
5. In addition to overnight lodging costs, lodging shall be allowed when it is necessary for crew members to wait for passengers, or when due to excessive hours of work crew members need a location to obtain rest.
6. In accordance with the provisions of TCA 4-3-1008(3), these travel regulations, effective August 1, 1998, supersede and rescind all previous promulgated travel exceptions concerning pilot and air crew travel, and shall remain in effect until subsequently modified or rescinded.

FOR FISCAL USE ONLY

	GRANT	SUB GRANT	OBJECT	AMOUNT
FUND				
DEPT/DIV.				
Speed Chart #	EN			

STATE OF TENNESSEE

DEPT _____ DIV _____

CLAIM FOR TRAVEL EXPENSES

FOR PERIOD FROM Month day, 2018 TO Month day, 2018

THIS CLAIM MUST BE PREPARED IN ACCORDANCE WITH TRAVEL REGULATIONS
TYPE OR PREPARE IN INK

DATE	PLACE LEFT	TIME LEFT AM/PM	PLACE ARRIVED	TIME ARRIVE D AM/PM	TRANSPORTATION				SUBSISTENCE				OTHER EXPENSES	TOTAL	
					MILES	MILEAGE AMOUNT	AIRLINE/ OTHER	TAXI LIMO RENTAL	LODGING	BREAK-FAST	LUNCH	DINNER	\$ ITEMIZED, ATTACH RECEIPTS AND EXPLAIN		
TYPE OR PRINT COMPLETE HOME ADDRESS					TOTALS										
													GROSS TOTAL		\$

TYPE OR PRINT COMPLETE HOME ADDRESS

TOTALS

GROSS TOTAL \$

ADDITIONAL EXPLANATION:

I CERTIFY THAT THIS CLAIM IS TRUE AND CORRECT

LESS TEMP. TRAVEL ADVANCE {0}

NAME

Vendor _____
 ADDRESS _____

 DATE OF PREVIOUS CLAIM _____

AMT. DUE CLAIMANT \$

AMT. DUE STATE \$0

SIGNATURE

OFFICIAL STATION _____ POSITION _____ DATE _____

APPROVED _____ DATE _____

APPROVED _____ DATE _____

ORIGINAL --- DIV. OF ACCOUNTS DUPLICATE --- FILE TRIPLICATE --- CLAIMANT
70FA-0080(REV. 8-86)