

CHAPTER NO. 923

SENATE BILL NO. 3789

By Woodson

Substituted for: House Bill No. 3912

By Winningham, Hood, Gresham, Hensley, McCormick, Niceley

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 10; Title 12; Title 29; Title 35; Title 39; Title 48; Title 49; Title 56 and Title 67, relative to openness, oversight and accountability of governmental entities or entities acting for or on behalf of governmental entities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-9-103, is amended by adding the following new, appropriately designated subdivisions:

() "Local government entity" means any city, town, municipality, county, including any county having a metropolitan form of government, local education agency, development district, utility district, human resource agency or other political subdivision of this state;

() "Local government joint venture entity" means any entity created pursuant to this chapter including, but not limited to, a self-insurance pool, trust, joint venture, nonprofit organization, or any other type of organization that is sponsored, owned, operated, or governed by two (2) or more local government entities as a separate and specific activity.

SECTION 2. Tennessee Code Annotated, Title 12, Chapter 9, Part 1, is amended by adding the following language as new, appropriately designated sections:

§ 12-9-1__.

Any interlocal agreement entered into by local government entities that creates a local government joint venture entity shall be filed in the office of the comptroller of the treasury within ninety (90) days of execution of the agreement. Any interlocal agreement entered into by local government entities of this state which created a local government joint venture entity that is currently in effect on the effective date of this act shall be filed with the office of the comptroller of the treasury within one hundred twenty (120) days of the effective date of this act.

§ 12-9-1__.

(a) Any local government entity of this state entering into an interlocal agreement that creates a local government joint venture entity shall, during the term of such agreement, file an annual statement with the office of the comptroller of the treasury. The statement shall set forth the names of all parties to the agreement, the annual

revenue and expenses of any entity created under the agreement and such other information as shall be required by the comptroller.

(b) The comptroller of the treasury may develop guidelines in furtherance of the administration of this section.

SECTION 3. Tennessee Code Annotated, Section 29-20-401, is amended by adding the following language as new, appropriately designated subsections:

() (1) An insurance pool, special fund, reserve fund, or legal or administrative entity administering any such pool or fund created and authorized under this section shall be audited annually in accordance with standards established by the comptroller of the treasury. A copy of such audit shall be filed with the comptroller as soon as practical, but in no event later than 120 days following the end of the pool's or reserve fund's fiscal year. Notwithstanding the foregoing, the operations, books and records of any such pool or reserve fund shall be subject to audit and review by the comptroller or any person authorized by the comptroller. The Commissioner of Commerce and Insurance shall assist the comptroller in any such audit upon the written request by the comptroller.

(2) The comptroller of the treasury is authorized to charge reasonable fees to cover expenses incurred by the comptroller or the Commissioner of Commerce and Insurance in the course of audits or investigations pursuant to this section.

(3) Any information obtained by or disclosed to the Commissioner of Commerce and Insurance pursuant to an examination, audit or investigation conducted under this chapter shall be confidential and shall not be disclosed to the public. Any information obtained by or disclosed to the comptroller shall be considered working papers of the comptroller and are therefore confidential. Furthermore, the Commissioner of Commerce and Insurance shall not disclose any information relating to the reserving of particular claims if such disclosure would likely prejudice the fund in settling the claim. This provision, however, shall not apply to any examination report, audit or investigative report prepared by the Commissioner of Commerce and Insurance or the comptroller, or to any rebuttal to such reports submitted by or on behalf of the fund examined. However, nothing contained in this subdivision shall be construed as prohibiting the Commissioner of Commerce and Insurance or the comptroller from disclosing the information listed in this subdivision, or any matters relating to that information, to state agencies of this or any other state, or to law enforcement officials of this or any other state or agency of the federal government at any time.

(4) Any person knowingly or willfully testifying falsely in reference to any matter material to such investigation, audit, examination or inquiry commits a Class A misdemeanor.

(5) Any director, trustee, officer, agent, or employee of an insurance pool or reserve fund or any other person who knowingly or willfully makes any false certificate, entry, or memorandum upon any of the books or papers of any insurance pool or reserve fund upon any statement filed or offered to be filed in

the department or used in the course of any examination, inquiry or investigation with the intent to deceive the Commissioner of Commerce and Insurance or any person appointed by the commissioner or the comptroller to make such examination commits a Class A misdemeanor.

SECTION 4. Tennessee Code Annotated, Section 12-4-101, is amended by adding the following language as a new, appropriately designated subsection:

() The provisions of this section shall apply to a member of the board of directors or officer of any nonprofit corporation required under § 8-44-102(b)(1)(E) to conduct all meetings of its governing body as open meetings.

SECTION 5. Tennessee Code Annotated, Section 8-6-109(a), is amended by adding the following language as a new subdivision (14) and renumbering subsequent subdivisions accordingly:

(14) To bring suit upon behalf of the state, local government units or local education agencies to recover public funds from entities financed by such funds and their directors or officers when such funds through the improper actions of such directors or officers have been used for unauthorized purposes, misapplied or misappropriated.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 26, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 20th day of June 2006


PHIL BREDEESEN, GOVERNOR