

## HOUSE BILL 568

By Ragan

### AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 5, relative to administrative procedures.

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

SECTION 1. Tennessee Code Annotated, Section 4-5-201(c), is amended by deleting the language "proposed rule" and substituting instead the language "rule to be proposed".

SECTION 2. Tennessee Code Annotated, Section 4-5-202(a), is amended by deleting the subsection and substituting instead the following:

(a) An agency shall precede all its rulemaking with notice and a public hearing unless:

(1) The rule is adopted as an emergency rule; or

(2)

(A) The rule is promulgated as a proposed rule.

(B) As used in this section, "proposed rule" and "proposed written rule" mean a rule that:

(i) Involves minor, nonsubstantive modifications, including, but not limited to, clerical updates;

(ii) Is approved by the joint government operations committee of the house of representatives and the senate pursuant to subdivision (a)(2)(C)(ii);

(iii) Repeals an existing rule; or

(iv) Eliminates or reduces a fee contained in an existing rule.

(C)

(i) Any rule promulgated as a proposed rule must be posted to the administrative register website within the secretary of state's website within seven (7) days of receipt, together with a statement that the agency will adopt the proposed rule without a public hearing unless within ninety (90) days after filing of the proposed rule with the secretary of state, a petition for a public hearing on the proposed rule is filed by ten (10) persons who will be affected by the rule, an association of ten (10) or more members, a municipality, or by a majority vote of any standing committee of the general assembly. If an agency receives such a petition, the agency shall not proceed with the proposed rulemaking until the agency has given notice and held a hearing as provided in this section. The agency shall forward the petition to the secretary of state. The secretary of state is not required to compile all filings of the preceding month into one (1) document.

(ii) An agency may petition the joint government operations committee of the house of representatives and the senate to authorize a rule to be a proposed rule when the agency has given proper notice and held a public hearing pursuant to this part, but the rule is withdrawn to make nonsubstantive modifications to the rule prior to the review of the rule by the joint government operations committee.

SECTION 3. Tennessee Code Annotated, Section 4-5-203(a)(2), is amended by deleting the language "proposed rulemaking" and substituting instead the language "rule being proposed".

SECTION 4. Tennessee Code Annotated, Section 4-5-203(c)(2)(A), is amended by deleting the language "proposed rule" wherever it appears and substituting instead the language "rule being proposed".

SECTION 5. Tennessee Code Annotated, Section 4-5-203(d), is amended by deleting the language "proposed rulemaking" and substituting instead the language "a rule being proposed".

SECTION 6. Tennessee Code Annotated, Section 4-5-204(c)(1), is amended by deleting the language "proposed rule" and substituting instead the language "rule being proposed".

SECTION 7. Tennessee Code Annotated, Section 4-5-205(a), is amended by deleting the language "proposed rules" and substituting instead the language "rules being proposed".

SECTION 8. Tennessee Code Annotated, Section 4-5-222(a)(1)(C), is amended by deleting the language "proposed rule" and substituting instead the language "rule being proposed".

SECTION 9. Tennessee Code Annotated, Section 4-5-226(b)(2), is amended by deleting the language "proposed rules" wherever it appears and substituting instead the language "proposed rules or rulemaking hearing rules".

SECTION 10. Tennessee Code Annotated, Section 4-5-226(i)(1)(I), is amended by deleting the language "rule proposed" and substituting instead the language "rule being proposed".

SECTION 11. Tennessee Code Annotated, Section 4-5-402(a), is amended by deleting "of whether a proposed rule or rule" and substituting instead "as to if a rule".

SECTION 12. Tennessee Code Annotated, Section 4-5-402(b), is amended by deleting "of the proposed rule" and substituting instead "the rule being proposed has".

SECTION 13. Tennessee Code Annotated, Section 4-5-402(b)(6), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 14. Tennessee Code Annotated, Section 4-5-403, is amended by deleting "proposed rule" wherever it appears and substituting instead "rule being proposed".

SECTION 15. The department of state shall promulgate rules, when necessary, to effectuate the purposes of this act.

SECTION 16. This act takes effect July 1, 2021, the public welfare requiring it.

Ragan  
Signature of Sponsor

**AMEND Senate Bill No. 1081**

**House Bill No. 568\***

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

SECTION 1. Tennessee Code Annotated, Section 4-5-201(c), is amended by deleting the language "proposed rule" and substituting instead the language "rule to be proposed".

SECTION 2. Tennessee Code Annotated, Section 4-5-202(a), is amended by deleting the subsection and substituting instead the following:

(a) An agency shall precede all its rulemaking with notice and a public hearing unless:

(1) The rule is adopted as an emergency rule; or

(2) The rule is promulgated as a proposed rule:

(A) As used in this section, "proposed rule" and "proposed written rule":

(i) Mean a rule that:

(a) Involves minor, nonsubstantive modifications,

including, but not limited to, clerical updates;

(b) Is approved by the joint government operations

committee of the house of representatives and the senate

pursuant to subdivision (a)(2)(B)(ii);

(c) Repeals an existing rule; or

(d) Eliminates or reduces a fee contained in an

existing rule;

(ii) Does not include a rule that:

- (a) May affect the rights of persons;
- (b) May mandate conduct or impose increased fees, penalties, or fines; or
- (c) A reasonable person might otherwise deem to be significant.

(B)

- (i) Any rule promulgated as a proposed rule must be posted to the administrative register website within the secretary of state's website within seven (7) days of receipt, together with a statement that the agency will adopt the proposed rule without a public hearing unless within ninety (90) days after filing of the proposed rule with the secretary of state, a petition for a public hearing on the proposed rule is filed by ten (10) persons who will be affected by the rule, an association of ten (10) or more members, a municipality, or by a majority vote of any standing committee of the general assembly. If an agency receives such a petition, the agency shall not proceed with the proposed rulemaking until the agency has given notice and held a hearing as provided in this section. The agency shall forward the petition to the secretary of state. The secretary of state is not required to compile all filings of the preceding month into one (1) document.
- (ii) An agency may petition the joint government operations committee of the house of representatives and the senate to authorize a rule to be a proposed rule when the agency has given proper notice and held a public hearing pursuant to this part, but the rule is withdrawn to make nonsubstantive

modifications to the rule prior to the review of the rule by the joint government operations committee.

SECTION 3. Tennessee Code Annotated, Section 4-5-203(a)(2), is amended by deleting the language "proposed rulemaking" and substituting instead the language "rule being proposed".

SECTION 4. Tennessee Code Annotated, Section 4-5-203(c)(2)(A), is amended by deleting the language "proposed rule" wherever it appears and substituting instead the language "rule being proposed".

SECTION 5. Tennessee Code Annotated, Section 4-5-203(d), is amended by deleting the language "proposed rulemaking" and substituting instead the language "a rule being proposed".

SECTION 6. Tennessee Code Annotated, Section 4-5-204(c)(1), is amended by deleting the language "proposed rule" and substituting instead the language "rule being proposed".

SECTION 7. Tennessee Code Annotated, Section 4-5-205(a), is amended by deleting the language "proposed rules" and substituting instead the language "rules being proposed".

SECTION 8. Tennessee Code Annotated, Section 4-5-222(a)(1)(C), is amended by deleting the language "proposed rule" and substituting instead the language "rule being proposed".

SECTION 9. Tennessee Code Annotated, Section 4-5-226(b)(2), is amended by deleting the first sentence of the subdivision and substituting instead the following:

Rules promulgated by a department or agency of state government whose functions, duties, or responsibilities are transferred to another department or agency remain in full force and effect, and thereafter are administered and enforced by the agency or department assuming responsibility for those functions, duties, or responsibilities as rules of that agency or department, and all rules pending with the attorney general and reporter or secretary of state, unless withdrawn, must continue that

status as rules being proposed until becoming effective as rules of the agency assuming the functions, duties, or responsibilities.

SECTION 10. Tennessee Code Annotated, Section 4-5-226(i)(1)(I), is amended by deleting the language "rule proposed" and substituting instead the language "rule being proposed".

SECTION 11. Tennessee Code Annotated, Section 4-5-402(a), is amended by deleting "of whether a proposed rule or rule" and substituting instead "as to if a rule".

SECTION 12. Tennessee Code Annotated, Section 4-5-402(b), is amended by deleting "of the proposed rule" and substituting instead "the rule being proposed may have".

SECTION 13. Tennessee Code Annotated, Section 4-5-402(b)(6), is amended by deleting "proposed rule" and substituting instead "rule being proposed".

SECTION 14. Tennessee Code Annotated, Section 4-5-403, is amended by deleting "proposed rule" wherever it appears and substituting instead "rule being proposed".

SECTION 15. Tennessee Code Annotated, Section 4-5-216, is amended by designating the existing language as subsection (a) and adding the following as a new subsection:

(b) A person affected or potentially affected by a rule may file suit directly to the chancery court in the county where the person resides to enjoin enforcement of a rule when the rule is not adopted in compliance with this chapter.

SECTION 16. The department of state shall promulgate rules, when necessary, to effectuate the purposes of this act.

SECTION 17. This act takes effect July 1, 2021, the public welfare requiring it.