

**Department of State
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Sequence Number: 10-02-10
Rule ID(s): 4835
File Date: 10/01/2010
Effective Date: 03/31/2011

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Department of Treasury
Division:	Administration
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1700-07-01	Rules and Regulations Governing Access to Public Records
Rule Number	Rule Title
1700-07-01-.01	Purpose and Scope
1700-07-01-.02	Requests for Access to Records
1700-07-01-.03	Request for Reproduction of Records
1700-07-01-.04	Fees and Costs for Reproduction of Records
1700-07-01-.05	Payment for Records
1700-07-01-.06	Waiver of Fees
1700-07-01-.07	Reduction of Fees

Chapter Number	Chapter Title
Rule Number	Rule Title

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

New Rules

Rules
of
The Tennessee Department of Treasury
Administration

Chapter 1700-07-01
Access to Public Records of the Department of Treasury Department

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1700-07-01-.01 Purpose and Scope.

- (1) The purpose of these rules is to provide procedures to allow access to records of the Tennessee Department of Treasury that are subject to the Tennessee Public Records Act, T.C.A. §§ 10-7-501 et seq., and are promulgated for the additional purpose of implementing and establishing fees to be charged for reproduction of records or for the development of records in a specific format.
- (2) These rules apply to all public records of all divisions, boards, councils and the like within or attached to the Department of Treasury.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-.02 Requests for Access to Records.

- (1) Processing of Requests to View Public Records.
 - (a) An in-person request for access to public records shall be made during the regular business hours of the Department from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
 - (b) All requests for access to public records of the Department made in-person, or by any other means, shall be directed to the Records Custodian, Tennessee Department of Treasury, 502 Deaderick Street, 10th Floor, Andrew Jackson State Office Building, Nashville, Tennessee 37243.
 - (c) All requests for access to the Department's public records shall identify with reasonable specificity the record, set or system of records which is requested.
 - (d) Requests will be processed on a first-come, first-served basis; provided, that the State Treasurer, or the Treasurer's designee, may at any time alter this provision when circumstances warrant.
- (2) Prior Review and Assessment for Confidential, Privileged or Protected Material.
 - (a) Review, Assessment and Redaction for Access to Records.
 1. Before providing access to the requested record, Department staff shall review the requested record or records as quickly as reasonably possible, consistent with the availability of appropriate staff and with regard to the scope of the records request, and

make an assessment of the status of the records, the scope of the requested access, and the time required for a response.

2. Upon review, Department staff will redact any data or information prior to release of the record, or portion of the record, that it determines has, or may have, confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.
- (b) If the Department determines that none of the provisions of subparagraph (c) below apply and access can otherwise be provided immediately, it shall do so.
- (c) If it appears from the Department's review and assessment that access to the record, or the system of records, cannot be provided immediately because:
1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;
 2. The record or records require redaction of confidential, privileged or otherwise protected material;
 3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation and/or its timeliness;
 4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any Departmental program purposes, and/or cannot be accessed without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;
 5. Production of the record or records will require development of a program or application to provide access to, or a readable format for access to, electronic or magnetic sources of the record or records; or
 6. For any other reason, then the Department shall inform the requesting person of the assessment and the reasonable approximate time required in complying with the request and a summary of the basis for the assessment regarding access to the records.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-.03 Request for Reproduction of Records.

- (1) Processing of Requests for Copies of Public Records.
 - (a) An in-person request for copies of public records of the Department shall be made during the regular business hours of the Department from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
 - (b) All requests for copies of public records of the Department made in-person, or by any other means, shall be directed to the Records Custodian, Tennessee Treasury Department, 502 Deaderick Street, 10th Floor, Andrew Jackson State Office Building, Nashville, Tennessee 37243.
 - (c) All requests for copies of the Department's public records must be made in writing to the Records Custodian of the Tennessee Department of Treasury, and shall identify with reasonable specificity the record, set or system of records which is requested.

- (d) Records requests will be processed on a first-come, first-served basis; provided, that the State Treasurer, or the Treasurer's designee, may at any time alter this provision when circumstances warrant.
- (2) Prior Review and Assessment for Confidential, Privileged or Protected Material.
- (a) Review, Assessment and Redaction of Records for Copy Request.
 - 1. Before reproducing copies of the requested record, the Department's staff shall review as quickly as reasonably possible the requested records consistent with the availability of appropriate staff and with regard to the scope of the records request, and make an assessment of the status and scope of the copy request and the time and costs required to locate, retrieve, review, redact, and reproduce the records.
 - 2. Upon review, Department staff will redact any data or information prior to release of the record, or portion of the record, that it determines has, or may have, confidential, privileged or otherwise protected material in the record that is subject to the Tennessee Public Records Act.
 - (b) If the Department determines that none of the provisions of subparagraph (c) apply and copies can otherwise be provided immediately, it shall do so.
 - (c) If it appears from the Department's assessment that reproduction of the record, or the system of records, cannot be provided immediately because:
 - 1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;
 - 2. The record or records require redaction of confidential, privileged or otherwise protected material;
 - 3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation and/or timeliness;
 - 4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any Departmental program purposes, and/or cannot be reproduced without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer or computer system;
 - 5. Reproduction of the record or records will require development of a program or application to provide copies, in a readable format from, electronic or magnetic sources of the record or records, or that the person or entity has requested copies of the record in a specific format, and that such program, application or format does not currently exist; or
 - 6. For any other reason, then the Department shall inform the requesting person of the assessment and the reasonable approximate time required and costs involved in complying with the request and a summary of the basis for the assessment regarding the costs of reproducing the records.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-.04 Fees and Costs for Reproduction of Records. Upon a request for records under Tennessee's Public Records Act, T.C.A. § 10-7-501 et seq., the Department shall assess charges for the copying and labor based on the most current version of the Schedule of Reasonable Charges, issued by the Office of Open Records Counsel, available at <http://www.comptroller.state.tn.us/openrecords/index.htm>.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-05 Payment for Records.

- (1) Prior to copies being made, or prior to developing a specific format for the reproduction of records, payment in full must be made to the Department, unless the payment is waived pursuant to Rule 1700-07-01-.06 below.
- (2) Payment for the costs of reproducing records shall be made only by cashier's check, money order, or other reliable means as determined by the Department.
- (3) The cashier's check or money order shall be made payable to the Treasurer, State of Tennessee, and delivered to the Records Custodian.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-.06 Waiver of Fees. Should any charge assessed under these rules total ten dollars (\$10.00) or less, the Department may waive the charge and provide the requested documents without payment. In addition, the State Treasurer or the Treasurer's designee, may, in his or her sole discretion, provide copies of rules, policies, guidance documents, public reports, etc., without charge:

- (1) for general public information or announcement purposes to applicants for, or recipients of, services from the Department's programs, or to provide information to such persons or their representatives in response to case-specific situations;
- (2) to legislative, judicial or administrative bodies or tribunals as part of providing general or specific information or clarification regarding the Department's programs or activities or in response to a case-specific request relative to applicants for, or recipients of, services from the Department or its employees, or for any other purpose;
- (3) to other state, county or local agencies, their investigative, administrative, enforcement, regulatory, audit or law enforcement agencies, or for any other purpose;
- (4) to advocacy groups, as determined by the Department, for persons served by the Department, to provide information or clarification, regarding Department programs or activities involving the Department's programs and policies;
- (5) to federal law enforcement, audit, program, administrative or regulatory agencies, or for any other purpose, or
- (6) if necessary to comply with any provisions of federal or state laws, court orders, regulations or policy directives.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

1700-07-01-.07 Reduction of Fees. The Treasurer, or the Treasurer's designee, may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.

Authority: T.C.A. §§ 4-3-2401; 10-7-503 and 10-7-506; Tennessee Electric Power Board of Nashville, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



Date: August 30, 2010

Signature: [Handwritten Signature]

Name of Officer: David H. Lillard, Jr.

Title of Officer: State Treasurer

Subscribed and sworn to before me on: August 30, 2010

Notary Public Signature: Melissa L. Davis

My commission expires on: 7/8/2013

My Commission Expires JULY 8, 2013

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
9-24-10
Date

Department of State Use Only

Filed with the Department of State on: 10-01-10

Effective on: 03/31/2011

[Handwritten Signature]
Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The proposed rules will not have a projected financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

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

These rules establish the Department of Treasury's charges for producing copies of public records consistent with the Schedule of Reasonable Charges for Copies of Public Records established by the Office of Open Records Counsel.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 1179 of the Acts of 2008 amended the Tennessee Public Records Act (T.C.A. § § 10-7-503, et seq.) to, among other things, require the Office of Open Records Counsel to develop a Schedule of Reasonable Charges for Copies of Public Records. The Act further provides that upon issuance of the Schedule, a records custodian may charge for copies or duplication of public records only pursuant to a property adopted rule.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rules affect members of the public generally. It is unknown whether any such members of the public urge adoption or rejection of these rules.

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

None.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

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

Mary Roberts-Krause, General Counsel

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

Mary Roberts-Krause, General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Address: 10th Floor, Andrew Jackson State Office Building; Nashville, Tennessee 37243; Phone: (615) 253-3855; E-mail address: mary.roberts-krause@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.