

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 175

HOUSE BILL NO. 533

By Representatives Dunn, Campfield, Haynes

Substituted for: Senate Bill No. 832

By Senator McNally

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 44, Part 1, relative to public meetings.

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

SECTION 1. Tennessee Code Annotated, Section 8-44-110, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Section 8-44-109, is amended by deleting the existing language and substituting instead the following:

(a) A governing body may, but is not required to, allow electronic communication between members by means of a forum over the Internet only if the governing body:

(1) Insures that the forum through which the electronic communications are conducted is available to the public at all times other than that necessary for technical maintenance or unforeseen technical limitations;

(2) Provides adequate public notice of the governing body's intended use of such electronic communication forum;

(3) Controls who may communicate through the forum;

(4) Controls the archiving of the electronic communications to ensure that the electronic communications are publicly available for at least one (1) year after the date of the communication; provided, that access to the archived electronic communications is user-friendly for the public; and

(5) Provides reasonable access for members of the public to view the forum at the local public library, the building where the governing body meets, or other public building.

(b) Electronic communications posted to a forum shall not substitute for decision making by the governing body in a meeting held in accordance with this part. Communications between members of a governing body posted to a forum

complying with this section shall be deemed to be in compliance with the open meetings laws compiled in this part.

(c) Prior to a governing body initially utilizing a forum to allow electronic communications by its members which meets the requirements of this section, including the public notice required in subsection (a), the governing body shall file a plan with the office of open records counsel. The plan shall describe how the governing body will ensure compliance with subsection (a). Within thirty (30) days of receipt of the plan, the office of open records counsel shall acknowledge receipt of the plan and shall report whether or not the plan and the proposed actions comply with subsection (a). If the office determines that compliance with subsection (a) has not been met, the office shall provide written comments regarding the plan to the governing body. Until such time as the governing body complies with the written comments provided by the office and the office issues a report of compliance, the governing body shall not be allowed to establish or utilize such forum. This subsection shall not apply to any governing body which had established a forum pursuant to this section prior to the effective date of this act.

(d) No member participating in an electronic communication pursuant to this section is deemed to be eligible for per diem for such participation.

(e) As used in this section, "governing body" means the elected governing body of a county, city, metropolitan form of government, or school board.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 23, 2009


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 7th day of May 2009



PHIL BREDESEN, GOVERNOR