

Senate Government Operations Committee 1

Amendment No. 1 to SB1624

**Bell
Signature of Sponsor**

AMEND Senate Bill No. 1624

House Bill No. 1420*

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

SECTION 1. Tennessee Code Annotated, Section 8-30-108(a), is amended by deleting the existing language and substituting the following language:

(a) There is created and established in the department of human resources a board of appeals. The board shall be comprised of a minimum of nine (9) members and a maximum of eighteen (18) members, in the discretion of the commissioner.

SECTION 2. Tennessee Code Annotated, Section 8-30-108, is further amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)

(1) The governor shall appoint the members of the board of appeals from the public at large, and shall strive to appoint members that reflect the geographic, racial, and gender diversity of the state population.

(2)

(A) Members appointed pursuant to chapter 800 of the Public Acts of 2012, and serving on March 1, 2014 shall continue to serve until the expiration of such members' terms and, thereafter, persons shall be appointed in accordance with subsection (a) for a term ending six (6) years from the date of the expiration of the term for which the members' predecessors were appointed.

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(B) If the commissioner determines that additional members shall be appointed to serve on the board in accordance with this act, then the governor shall appoint such members to serve initial terms of six (6) years. Thereafter, such members shall be appointed for a term ending six (6) years from the date of the expiration of the term for which the member's predecessor was appointed.

(3) A person appointed to fill a vacancy occurring prior to the expiration of such term shall, however, be appointed for only the remainder of the unexpired term.

(4) The governor may remove a member of the board of appeals for cause. Removal for cause may include, but is not limited to, three (3) consecutive absences from a meeting of the board of appeals.

SECTION 3. Tennessee Code Annotated, Section 8-30-108(d), is amended by deleting the existing language and substituting the following language:

(d) The commissioner shall establish the compensation for the members of the board of appeals. The members shall be entitled to reimbursement for reasonable necessary travel expenses in accordance with the state comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 4. Tennessee Code Annotated, Section 8-30-318(h)(1)(B), is amended by designating the existing language as subdivision (h)(1)(B)(i) by adding the following language as a new subdivision (h)(1)(B)(ii):

(ii) At Step II of the appeal procedure, it is the duty of the employee to provide written argument to the commissioner setting out why the employee believes the Step I decision was in error and ought to be overturned, reduced, or amended. An employee failing to provide such information to the commissioner shall be considered in default and forfeits the ability to appeal to Step III.

SECTION 5. Tennessee Code Annotated, Section 8-30-318(i), is amended by adding the following language as a new subdivision (i)(4) and redesignating the remaining subdivisions accordingly:

(4) The department shall forward the record of the case, which consists of the Step I complaint, the Step I decision, the Step II complaint and the commissioner's Step II decision, to sitting board members prior to the Step III meeting for preliminary review. Evidentiary attachments to the aforementioned documents shall not be considered part of the record and shall not be submitted to the board members prior to the Step III hearing.

SECTION 6. Tennessee Code Annotated, Section 8-30-318, is amended by adding the following language as new, appropriately designated subsections:

() A complainant who does not appear, personally, electronically or through the appearance of counsel, for a hearing before the board of appeals waives the complainant's hearing at Step III. The board shall enter a default judgment against the complainant and the decision of the commissioner at Step II shall become final. In no instance shall the board of appeals proceed with the Step III hearing without the presence of the complainant personally, electronically, or through the appearance of counsel.

() An order of the board of appeals is considered final upon execution by the presiding board member. Neither settlement agreements issued voluntarily by the parties nor decisions rendered by the board require a signature of the administrative law judge to be considered final. Once executed, the department shall forward a copy to the administrative procedures division for record purposes.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.