



## Legislation Affecting the Tennessee Board of Regents and Member Institutions *Public Acts of 2012*

Section/Description	Public Chapter	Page
<b>I. PUBLIC FINANCE AND APPROPRIATIONS</b>		
Appropriations Bill	<a href="#"><u>1029</u></a>	5
<b>II. ACADEMICS</b>		
Encourages reverse articulation and transfer between TBR community colleges and universities, the UT system, and private SACS accredited institutions	<a href="#"><u>662</u></a>	6
Expands access to individual teacher effect data to colleges of education and keeps individual teacher performance data private	<a href="#"><u>703</u></a>	6
Creates a consortium to evaluate and coordinate dual credit and other early post-secondary credit	<a href="#"><u>967</u></a>	7
Requires that certain information regarding advanced placement courses and dual enrollment courses be included in commissioner of education annual report	<a href="#"><u>1014</u></a>	8
<b>III. BUSINESS</b>		
Changes contractor retainage amounts for contracts over \$100,000	<a href="#"><u>565</u></a>	8
Revises various provisions of the Prompt Payment Act	<a href="#"><u>609</u></a>	9
	<a href="#"><u>625</u></a>	10
Alters duties relating to disposal of certain property and purchases	<a href="#"><u>626</u></a>	10
Allows any town, city, county, county with a metropolitan government, the state, or any not-for-profit to purchase, preserve, and sell development rights	<a href="#"><u>755</u></a>	10
Clarifies preference for blind vending on UT & TBR campuses	<a href="#"><u>976</u></a>	11
Eliminates requirement for annual higher education vehicle petroleum usage report and electronic meeting notice requirements. Changes payments for background checks of certain employees and longevity checks	<a href="#"><u>1054</u></a>	11

Section/Description	Public Chapter	Page
<b>V. FACILITIES</b>		
Adopts the 2010 ADA Standards for Accessible Design as the standard for building construction	<a href="#">517</a>	11
Changes contractor retainage amounts for contracts over \$100,000	<a href="#">565</a>	12
Revises various provisions of the Prompt Payment Act	<a href="#">609</a>	12
Allows any town, city, county, county with a metropolitan government, the state, or any not-for-profit to purchase, preserve, and sell development rights	<a href="#">755</a>	13
Clarifies preference for blind vending on UT & TBR campuses	<a href="#">976</a>	13
Requires THEC in consultation with UT and TBR systems to development the comprehensive capital improvements master plan by June 30, 2013 (Section 63, Item 3b of Public Chapter 1029)	<a href="#">1029</a>	13
<b>VI. GOVERNANCE</b>		
Creates the interstate nurse licensure compact	<a href="#">559</a>	14
Changes the current statute by deleting the term “necessity” and “physical quorum” allowing the board of trustees at UT and TBR to participate in meetings electronically	<a href="#">692</a>	14
Revises governing structure of state agencies, committees, boards, and commissions, including the Tennessee Higher Education Commission	<a href="#">986</a>	14
Establishes new route to licensure to teach in grades 9-12 for persons who have taught in certain postsecondary institutions	<a href="#">1072</a>	15

Section/Description	Public Chapter	Page
<b>VII. HUMAN RESOURCES</b>		
Keeps the emergency contact information of public workers confidential	<a href="#">577</a>	15
Clarifies right-to-work law	<a href="#">826</a>	15
Allows court to award back pay to TBR tenured faculty member who was wrongly terminated	<a href="#">933</a>	15
Allows information on applicants for president and director positions within UT and TBR system to be kept confidential until final three candidates have been selected and until 15 days before board votes on recommended candidate	<a href="#">956</a>	16
Allows institutions to pay for background checks for certain UT and TBR employees, deletes option of separate longevity payments for TBR employees, and removes certain reporting requirements	<a href="#">1054</a>	16
<b>VIII. LEGAL</b>		
Allows access to protected health information in healthcare liability legal action	<a href="#">926</a>	17
Revises and enacts provisions governing public officials receiving a benefit not otherwise authorized by law	<a href="#">966</a>	17
Clarifies preference for blind vending on UT & TBR campuses	<a href="#">976</a>	18
Enacts the "Eligibility Verification for Entitlements Act," requiring a person to prove that they are a citizen or legal resident of the United States in order to receive public benefits	<a href="#">1061</a>	18
<b>IX. LOTTERY</b>		
Requires THEC to recommend changes to the lottery scholarship based on changes in the GED test	<a href="#">787</a>	18
Allows independent postsecondary schools which are accredited by SACS to continue receiving lottery scholarship funding through 2016 (Applies to students at the Art Institute of Nashville)	<a href="#">1095</a>	18

Section/Description	Public Chapter	Page
<b>X. STUDENT AFFAIRS</b>		
Requires high schools to send vaccination records to higher education institutions for dual enrollment students	<a href="#">656</a>	19
Creates special education diploma for successful students with mental disabilities	<a href="#">772</a>	19
Extends the deadline for raising matching fund for the Tennessee Intercollegiate State Legislature Foundation	<a href="#">774</a>	19
Permits certain Tennessee veterans, who are students at public institutions of higher education, to register for classes prior to the general student population	<a href="#">788</a>	19
Requires interest inventory assessments be offered to high school and college students and requires the reporting of results to the state board of education	<a href="#">918</a>	19
Enacts the "Eligibility Verification for Entitlements Act," requiring a person to prove that they are a citizen or legal resident of the United States in order to receive public benefits	<a href="#">1061</a>	20
Removes Williamson County from Move on When Ready Act	<a href="#">1077</a>	20

## PUBLIC FINANCE AND APPROPRIATIONS

Public Chapter  
[1029](#)

**\$623,212,400 was appropriated by the Governor and the General Assembly** for the operations of the TBR system. Included in the appropriations are the following elements:

**Operating Budget**

- 1) **Decrease** in operating funds of \$12.1 million, equal to 2.1% of current year state appropriations.
- 2) **Increase** of \$14.9 million to recognize improvement in educational outcomes at TBR institutions. Measures of these outcomes include, but are not limited to: (1) number of degrees and certificates awarded, (2) student retention and progression points, (3) research and service efforts, (4) workforce training activities, and (5) graduation rates.
- 3) **Increase** of \$17.2 million for a portion of a 2.5% salary increase for state employees, including employees of the higher education systems. The state funding portion is based on the higher education funding formula, meaning that institutions would be responsible for funding approximately \$10.1 million toward the cost of the 2.5% salary increase.
- 4) **Increase** of an estimated \$2 million to fund increases in benefits costs for health insurance premiums, and contributions to the Tennessee Consolidated Retirement System.
- 5) \$9.2 million in nonrecurring state funding to address the impact of the second year of the phase out of the old THEC enrollment formulas “hold harmless” provision. This funding benefits institutions losing funds from the hold harmless phase out by providing additional time to adjust to the new planned recurring funding level.
- 6) \$4 million in nonrecurring state funding for the University of Memphis for the second year of a five-year expansion to the Lambuth campus in Jackson.
- 7) \$100,000 for the Forensic Center at Quillen College of Medicine at ETSU
- 8) TBR is allowed to utilize non-recurring funds appropriated to community colleges for the outcomes- based formula to support the operation of the community colleges as a unified system and to supplement future funding of the outcomes-based formula for community colleges. A report must be filed with the legislative chairs of the education committees related to the use of these funds.

**PUBLIC FINANCE AND APPROPRIATIONS**

**Public Chapter 1029**

**Capital Budget**

9) \$107.9 million in state capital outlay funding for TBR for the MTSU science building. MTSU is required to match this with \$18.75 million in other funds.

10) Authorization to initiate planning activities on the next five (5) TBR capital priorities, namely:

- o Columbia State’s Williamson County Campus;
- o Nashville State’s Academic & Support Building;
- o Northeast State’s Technical Education Complex;
- o University of Memphis’ Biochemistry & Biology Building; and
- o Volunteer State’s Humanities Building

The planning activities authorized would be funded from matching funds to be provided from non-state sources.

11) \$39.9 million in capital maintenance funding for 33 projects.

12) \$1 million to build out the third floor of the Allied Health and Technologies Building at the Roane State Community College, Oak Ridge campus, which supplements institutional funding of \$1.3 million for this project.

*Effective July 1, 2012.*

**ACADEMICS**

**Public Chapter 662**

**Encourages reverse articulation among public and private SACS accredited schools.**

The community colleges of the board of regents system are authorized and encouraged to enter into reverse articulation or reverse transfer agreements with the universities of the board of regents and the University of Tennessee systems and with private institutions of higher education that are accredited by the Southern Association of Colleges and Schools (SACS). The universities of the board of regents and the University of Tennessee systems are authorized and encouraged to enter into reverse articulation or reverse transfer agreements with the community colleges of the board of regents system.

*Effective April 4, 2012.*

**Public Chapter 703**

**Teacher Effect Data.** Under present law, data from the Tennessee Comprehensive Assessment Program (TCAP) is used to provide an estimate of the statistical distribution of teacher effects on the educational progress of students within school districts for grades three through eight. The estimates of specific teacher effects on the educational progress of students is not a public record, and may be made available only to the specific teacher, the teacher's appropriate administrators as designated by the local education authority (LEA) and school board members. This public chapter makes available teacher effect data of individual teachers to the state board approved teacher preparation programs of their graduates. Such estimates are not a public record and shall be used only in evaluation of the respective teacher preparation programs. Each institution or postsecondary system receiving the estimates shall develop a policy to protect the confidentiality of the data. This bill replaces the present law requirement that the estimates made available to the preparation programs must not be personally identifiable with a particular teacher.

*Effective April 11, 2012.*

## ACADEMICS

### Public Chapter 967

**Dual Credit, creates consortium for cooperative innovation education.** This act defines a "dual credit program" as a program of high school courses in which a course qualifies through a curriculum alignment agreement for postsecondary credit toward a postsecondary diploma or certificate or an associate or baccalaureate degree. The act establishes the consortium for cooperative innovation education, administratively attached to the department of education's office of postsecondary coordination and alignment. This consortium is co-chaired by the chancellor of the board of regents or the chancellor's designee and the president of the University of Tennessee system or the president's designee. Other members of the consortium include: the executive director of the Tennessee higher education commission or the executive director's designee, the executive director of the state board of education or the executive director's designee, and the commissioner of education or the commissioner's designee. The consortium is charged with:

- (1) Development and implementing a program to align secondary and postsecondary courses;
- (2) Development and implementation of early postsecondary credit opportunities; and
- (3) Creation of marketing channels to advise students of early postsecondary education opportunities.

The act also authorizes the consortium to create an advisory committee and to establish and appoint other committees as it deems necessary. Requires that if an advisory committee is created, the Tennessee Chamber of Commerce and Industry, the Tennessee Business Roundtable and the Tennessee Independent College and Universities Association will be encouraged to participate in the advisory committee's activities. The board of trustees of the University of Tennessee and the board of regents are required to develop, amend, or adopt relevant policies and guidelines to realize dual credit or dual enrollment for postsecondary institutions with the secondary schools of the state. The act allows community colleges and technology centers within the Tennessee board of regents to develop remediation programs for students during their secondary education, which eliminates the need for remediation in postsecondary education.

The act also requires the state board and the department of education to develop, amend, or adopt relevant policies and guidelines to realize dual credit or dual enrollment in the public high schools.

The office of postsecondary coordination shall (1) make recommendations to the consortium, (2) develop a secure database to maintain escrowed assessment scores resulting from dual credit course challenge examinations, and (3) provide students information of the requirements for receipt and transferability of credits among the public postsecondary institutions from dual credit courses.

Nothing in the act is intended to jeopardize any institution's regional accreditation and faculty can be utilized to review course curriculum, set challenge exam scores and review challenge exam content as needed.

*Effective July 1, 2012.*

## ACADEMICS

### **Public Chapter 1014**

#### **Advance placement and dual enrollment in the commissioner of education report.**

Requires that the commissioner of education include the following in the commissioner's annual report:

- (1) A list of the Advanced Placement (AP) courses offered in each local education authority (LEA) and a list of the AP courses offered in each of the LEA's schools that serve grades in which AP courses could be taken. The number of students taking AP courses and the percentage of students scoring three (3) or above on AP exams must be reported by LEA and by school; and
- (2) A list of the dual enrollment courses taken by students in each LEA and a list of the dual enrollment courses taken by students in each of the LEA's schools that serve grades in which dual enrollment courses could be taken. The number of students taking dual enrollment courses and the percentage of students successfully completing dual enrollment courses must be reported by LEA and by school.

*Effective May 15, 2012.*

## BUSINESS

### **Public Chapter 565**

**Revises contractor retainage amounts related to unemployment compensation.** The act changes language under the employment security law concerning the amount of retainage a contractor shall withhold for a subcontractor for unemployment compensation premiums. Any person, firm or corporation entering into a formal contract with the state, local government, or institution for construction or maintenance of public buildings, works, or projects where the contract is at least \$100,000 and extends over six months must notify the commissioner of labor and workforce development of the names of all subcontractors who will furnish labor, if the subcontracts are for \$10,000 or more. The notice must be given not less than thirty (30) days prior to paying the contractor the final five percent (5%) of the subcontract. The act further clarifies that the amount of retainage that a contractor may withhold on behalf of a subcontractor, and for which a contractor is responsible in the event that the subcontractor does not pay unemployment compensation premiums, is reduced from ten percent (10%) to five percent (5%) of the subcontract amount.

*Effective March 12, 2012.*



**BUSINESS**

**Public Chapter  
609**

**Revises provisions of the Prompt Payment Act related to contractor retainage.**

Under current law:

- (1) all construction contracts on any project in this state, both public and private, may provide for the withholding of retainage. The retainage amount may not exceed five percent (5%) of the amount of the contract;
- (2) the owner, whether public or private, must release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within 90 days after completion of the work or within 90 days after substantial completion of the project for work completed, whichever occurs first. The prime contractor must pay all retainages due any subcontractor within 10 days after receipt of the retainages from the owner. Any subcontractor receiving the retainage from the prime contractor must pay to any sub-subcontractor or material supplier all retainages due the sub-subcontractor or material supplier within 10 days after receipt of the retainages; and
- (3) whenever, in any contract for the improvement of real property, a certain amount or percentage of the contract price is retained, that retained amount must be deposited in a separate, interest bearing, escrow account with a third party.

Under present law, it is an offense for a person, firm or corporation to fail to comply with the above (1), (2) or (3).

This act requires that:

- (1) the court must order restitution to the owner of retained funds if not promptly paid in accordance with the law;
- (2) an escrow account be established upon the withholding of any retainage;
- (3) the withholder of funds has a duty to provide written notice that it has complied with escrow requirement to any prime contractor upon withholding the amount of retained funds from each and every application for payment, including identification of the name of the financial institution with whom the escrow account has been established; account number; and amount of retained funds that are deposited in the escrow account with the third party; and
- (4) retained funds are the property of the contractor upon the “withholding” of funds instead of upon “deposit” of funds.

*Effective July 1, 2012.*

<b>BUSINESS</b>	
<b><u>Public Chapter 625</u></b>	<p><b>Revises requirements for public contracts. (not applicable to purchase or leasing of real estate or construction of public buildings)</b>This act requires that when using multi-step sealed bidding process is used to obtain a service or product, term contracts longer than 60 months may be made if the chief procurement officer determines it is in the best interest of the state to have a contract longer than 60 months. Notice of such approvals of contracts over 60 months must be posted on the state procurement office’s internet site.</p> <p>This act increases the maximum amount of a procurement that can be made without requisitioning through the department of general services to \$50,000 as long as it is approved by the chief procurement officer. It was previously \$25,000.</p> <p>Notice of procurement of contracts that do not require approval from the commissioner of financial and administration must be posted on the state procurement office’s website. <i>(See public act for details of what must be posted on website).</i></p> <p>Any procurement more than \$50,000 made by state departments, institutions and agencies without requisitioning the goods or services through the department of general services, such departments, institutions and agencies must actively solicit bids and proposals from minority-owned, woman-owned, Tennessee service-disabled veteran owned and small businesses in accordance with the Tennessee Minority-Owned, Women-Owned and Small Business Procurement and Contracting Act.</p> <p><i>Effective April 1, 2012.</i></p>
<b><u>Public Chapter 626</u></b>	<p><b>Transfer of responsibility related to State Surplus Personal Property Act.</b> The State Surplus Personal Property Act (the Act), which generally governs the disposal of goods and services by the state, will keep the administration of state surplus personal property with the commissioner of general services. This act also allows credit cards to be used to pay for the purchase of surplus personal property. The act declares it is class A misdemeanor for any state official or employee to purchase surplus personal property from the general assembly except by bid at public or internet auction.</p> <p><i>Effective April 1, 2012.</i></p>
<b><u>Public Chapter 755</u></b>	<p><b>Allows government and certain not-for-profits to buy, sell, or preserve development rights.</b> Authorizes any town, city, county, county with a metropolitan government, the state, or any not-for-profit conservation or preservation organization to purchase development rights from a property owner with the consent of the property owner and the purchase must be through negotiations of the development rights in the free marketplace. The same entities may preserve the purchased or donated development rights unused for a definite or indefinite period of time and may at any time sell the development rights so held to a property owner in a designated receiving area with the purchase being one negotiated in the free marketplace. In order to accept a donation of development rights or for the purchase or sale of developments rights by a town, city, county, county with a metropolitan government, the donation, purchase or sale must be approved by that government's legislative body.</p> <p><i>Effective April 16, 2012.</i></p>

<b>BUSINESS</b>	
<b><u>Public Chapter 976</u></b>	<p><b>Blind Vending.</b> This law provides that nothing in present law regarding vocational services for the blind/blind vendors will limit the ability of an institution that is governed by the University of Tennessee or the state university and college system to contract for food services (cafeterias, restaurants, food courts and catering services) in new buildings or on new campuses provided that a site suitable to the institution, after consultation with the department, is also made available for a blind vendor to manage and operate automated vending machines and/or a counter service as jointly agreed to by the institution and department in the new building or on the new campus.</p> <p>TBR attorneys are working on specific guidance for institutions related to the implementation of this act.</p> <p><i>Effective May 10, 2012.</i></p>
<b><u>Public Chapter 1054</u></b>	<p><b>Revises higher education background checks and longevity payment programs and removes certain reporting requirements.</b></p> <ol style="list-style-type: none"> <li>(1) This bill removes the requirement that persons applying for jobs with access to student housing facilities at public higher education institutions must pay for their own background checks. The background check will still be required but now institutions may pay it;</li> <li>(2) TBR employees will receive their annual longevity payment in their regular monthly or semi-monthly check;</li> <li>(3) The board of regents, the board of trustees of the University of Tennessee and the Tennessee higher education commission are exempt from the requirement of filing the determination of necessity with the secretary of state when such bodies allow their members to participate in a meeting by electronic means; and</li> <li>(4) State universities and community colleges no longer are required to create and submit an annual report on reduction of petroleum use in their motor vehicle fleets.</li> </ol> <p><i>Effective May 21, 2012.</i></p>
<b>FACILITIES</b>	
<b><u>Public Chapter 517</u></b>	<p><b>Adopts the 2010 ADA standards for Accessible Design as the standard for building.</b> Any public building that is constructed, enlarged, or substantially altered or repaired after July 1, 2012, shall be designed and constructed pursuant to specifications, approved by the responsible authority, making such building accessible to, and usable by, persons who have a physical disability. The minimum specifications shall be the 2010 ADA Standards for Accessible Design, and any further amendments, supplements or subsequent editions, or any other code as the state fire marshal determines by rule. The minimum specifications for a project shall be those in effect at the time the project is submitted to the responsible authority for final approval of the construction, enlargement, alteration, or repair.</p> <p><i>Effective February 23, 2012.</i></p>

<b>FACILITIES</b>	
<b><u>Public Chapter 565</u></b>	<p><b>Revises contractor retainage amounts related to unemployment compensation.</b> The act changes language under the employment security law concerning the amount of retainage a contractor shall withhold for a subcontractor for unemployment compensation premiums. Any person, firm or corporation entering into a formal contract with the state, local government, or institution for construction or maintenance of public buildings, works, or projects where the contract is at least \$100,000 and extends over six months must notify the commissioner of labor and workforce development of the names of all subcontractors who will furnish labor, if the subcontracts are for \$10,000 or more. The notice must be given not less than thirty (30) days prior to paying the contractor the final five percent (5%) of the subcontract. The act further clarifies that the amount of retainage that a contractor may withhold on behalf of a subcontractor, and for which a contractor is responsible in the event that the subcontractor does not pay unemployment compensation premiums, is reduced from ten percent (10%) to five percent (5%) of the subcontract amount.</p> <p><i>Effective March 12, 2012.</i></p>
<b><u>Public Chapter 609</u></b>	<p><b>Revises provisions of the Prompt Payment Act related to contractor retainage.</b></p> <p>Under current law:</p> <ul style="list-style-type: none"> <li>(4) all construction contracts on any project in this state, both public and private, may provide for the withholding of retainage. The retainage amount may not exceed five percent (5%) of the amount of the contract;</li> <li>(5) the owner, whether public or private, must release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within 90 days after completion of the work or within 90 days after substantial completion of the project for work completed, whichever occurs first. The prime contractor must pay all retainages due any subcontractor within 10 days after receipt of the retainages from the owner. Any subcontractor receiving the retainage from the prime contractor must pay to any sub-subcontractor or material supplier all retainages due the sub-subcontractor or material supplier within 10 days after receipt of the retainages; and</li> <li>(6) whenever, in any contract for the improvement of real property, a certain amount or percentage of the contract price is retained, that retained amount must be deposited in a separate, interest bearing, escrow account with a third party.</li> </ul> <p>Under present law, it is an offense for a person, firm or corporation to fail to comply with the above (1), (2) or (3).</p> <p>This act requires that:</p> <ul style="list-style-type: none"> <li>(5) the court must order restitution to the owner of retained funds if not promptly paid in accordance with the law;</li> <li>(6) an escrow account be established upon the withholding of any retainage;</li> <li>(7) the withholder of funds has a duty to provide written notice that it has complied with escrow requirement to any prime contractor upon withholding the amount of retained funds from each and every application for payment, including identification of the name of the financial institution with whom the escrow account has been established; account number; and amount of retained funds that are deposited in the escrow account with the third party; and</li> <li>(8) retained funds are the property of the contractor upon the “withholding” of funds instead of upon “deposit” of funds.</li> </ul> <p><i>Effective July 1, 2012.</i></p>

**FACILITIES**

<p><b><u>Public Chapter 755</u></b></p>	<p><b>Allows government and certain not-for-profits to buy, sell, or preserve development rights.</b> Authorizes any town, city, county, county with a metropolitan government, the state, or any not-for-profit conservation or preservation organization to purchase development rights from a property owner with the consent of the property owner and the purchase must be through negotiations of the development rights in the free marketplace. The same entities may preserve the purchased or donated development rights unused for a definite or indefinite period of time and may at any time sell the development rights so held to a property owner in a designated receiving area with the purchase being one negotiated in the free marketplace. In order to accept a donation of development rights or for the purchase or sale of developments rights by a town, city, county, county with a metropolitan government, the donation, purchase or sale must be approved by that government's legislative body.</p> <p><i>Effective April 16, 2012</i></p>
<p><b><u>Public Chapter 976</u></b></p>	<p><b>Blind Vending.</b> This law provides that nothing in present law regarding vocational services for the blind/blind vendors will limit the ability of an institution that is governed by the University of Tennessee or the state university and college system to contract for food services (cafeterias, restaurants, food courts and catering services) in new buildings or on new campuses provided that a site suitable to the institution, after consultation with the department, is also made available for a blind vendor to manage and operate automated vending machines and/or a counter service as jointly agreed to by the institution and department in the new building or on the new campus.</p> <p>TBR attorneys are working on specific guidance for institutions related to the implementation of this act.</p> <p><i>Effective May 10, 2012.</i></p>
<p><b><u>Public Chapter 1029</u></b></p>	<p><b>Requires development of comprehensive capital improvements master plan for higher education by June 30, 2013.</b> Tennessee Higher Education Commission in consultation with the University of Tennessee and TBR is required to create a higher education master plan which must be integrated into the comprehensive, statewide master plan developed by the Commissioner of Finance and a statewide task force appointed by the commissioner. (See Section 63, item 3 b of Public Chapter 1029)</p> <p><i>Effective July 1, 2012.</i></p>

**GOVERNANCE**

<p><b><u>Public Chapter 559</u></b></p>	<p><b>Creates an interstate Nurse Licensure compact.</b> Creates sunrise provision for the interstate nurse licensure compact, June 30, 2014.</p> <p><i>Effective March 13, 2012.</i></p>
<p><b><u>Public Chapter 692</u></b></p>	<p><b>Removes the necessity of a physical quorum in current law, thereby allowing the UT board of trustees and TBR to participate in meetings electronically.</b> Under present law:</p> <p>This law exempts the board of trustees of the University of Tennessee and the board of regents of state university and community college system from the requirements that: (1) a physical quorum be present at the location specified in the notice of a meeting in order to allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law;</p> <p>(2) the board no longer must take a vote of necessity for an electronic or telephonic meeting; and</p> <p>(3) The board no longer needs to file such determination of necessity for electronic or telephonic meeting with the office of the secretary of state.</p> <p><i>Effective April 11, 2012.</i></p>
<p><b><u>Public Chapter 986</u></b></p>	<p><b>Reorganization of state agencies, committees, and boards and commissions, including the Tennessee Higher Education Commission and the Tennessee Council for Career and Technical Education.</b> This act requires the governor to employ an executive director of the Tennessee Higher Education Commission (THEC), define the executive director's duties and, within budgetary limitations, set the executive director's compensation. The executive director will serve at the pleasure of the governor. Within budgetary limitations, and subject to the approval of the commissioner of human resources, the executive director may employ other professional and staff employees that are appropriate for the efficient discharge of THEC's duties.</p> <p>This act authorizes the governor to appoint and set the salary of the executive director to the Tennessee Council for Career and Technical Education. The executive director may employ personnel and contract for services and the council is administratively attached to the department of education.</p> <p>The act increases the membership of the Underground Storage Tanks and Solid Waste Disposal Control Board to include one person who is a registered engineer or geologist or qualified land surveyor with knowledge of management of solid wastes or hazardous materials or the management of underground storage tanks from the faculty of an institution of higher learning, who may be appointed from a list of four persons, two of whom may be nominated by the board of trustees of the University of Tennessee system and two of whom may be nominated by the board of regents of the state university and community college system.</p> <p><i>Section 18 of this act and the sunrise provision in Section 46 pertaining to the statewide community services agency shall take effect July 1, 2012; All other sections of this act shall take effect October 1, 2012.</i></p>

## GOVERNANCE

### Public Chapter 1072

**Alternative Teacher Licensure.** Authorizes the issuance of licenses to teach in grades nine through 12 to persons who have taught at a postsecondary education institution. A license issued will only authorize the licensee to teach in the subject area in which the licensee taught at the higher education institution. Any person applying for a teaching license pursuant to act must:

- (1) Have been a full-time college professor or instructor for at least two of the last five years at an eligible postsecondary institution that is accredited by a regional accrediting association or have been a part-time college professor or instructor, teaching at least one course per semester, for at least three of the last five years at an eligible postsecondary institution that is accredited by a regional accrediting association;
- (2) Submit for review at least three years of documented teaching evaluations that rate the applicant for licensure as proficient or better in the subject area in which the applicant is seeking licensure;
- (3) Attend in-service training sessions, both before and during licensure, as required by the state board of education in consultation with institutions of higher education;
- (4) Participate in a mentoring program to be established by the state board of education throughout the first school year during which the applicant is licensed; and
- (5) Successfully complete all exams required for licensure for the subject area in which the applicant is seeking licensure.

The state board of education is authorized to promulgate rules to effectuate the purposes of the licensure system for postsecondary instructors.

*Effective May 1, 2012.*

## HUMAN RESOURCES

### Public Chapter 577

**Keeps public worker emergency contact information confidential.** Classifies as a confidential record the emergency contact information for any state, county, municipal or other public employee or former employee, or of any law enforcement officer in the employ of a public college or university.

*Effective March 13, 2012.*

### Public Chapter 826

**Clarifies right-to-work law.** Determines that it is the public policy of the state that employees in Tennessee have the right to employment without regard to a person's refusal to join or to withdraw from a labor union or employee organization. Employees in Tennessee have the right to decertify a union or bargaining representative upon compliance with federal law.

*Effective April 25, 2012.*

### Public Chapter 933

**Allows court to award back pay to TBR tenured faculty who were wrongly terminated.** Allows a judicial chancellor to award back pay in the event a determination is made that a dismissal was not appropriate of a tenured faculty member within the TBR system.

*Effective July 1, 2012.*



<b>HUMAN RESOURCES</b>	
<b><u>Public Chapter 956</u></b>	<p><b>Confidentiality during the application process of chief executive officer for public higher education institutions.</b> An application for a position of chief executive officer of a public institution of higher education, materials submitted with an application, letters of recommendation or references concerning an applicant, and any other records or information relating to or arising out of the process of searching for and selecting an individual for a position of chief executive officer of a public institution of higher education shall be treated as confidential and shall not be open for public inspection if the applicant has requested confidentiality. After the finalists (no less than three candidates) have been selected by the search committee, a record relating exclusively to the candidates selected as finalists shall not be confidential and shall be open for public inspection, except for a record otherwise confidential under state or federal law. Release of the finalists' names and information shall occur no later than fifteen (15) calendar days before the final vote of the governing board to appoint or elect a person to fill the position. The individual selected by the governing board must come from the list of finalists. This applies to the selection of presidents at TBR universities and community colleges and directors of the technology centers.</p> <p><i>Effective May 10, 2012.</i></p>
<b><u>Public Chapter 1054</u></b>	<p><b>Revises higher education background checks and longevity payment programs and removes certain reporting requirements.</b></p> <ol style="list-style-type: none"> <li>(1) This act removes the requirement that persons applying for jobs with access to student housing facilities at public higher education institutions must pay for their own background checks. The background check will still be required but now institutions may pay for it;</li> <li>(2) TBR employees will receive their annual longevity payment in their regular monthly or semi-monthly check;</li> <li>(3) The board of regents, the board of trustees of the University of Tennessee and the Tennessee higher education commission are exempt from the requirement of filing the determination of necessity with the secretary of state when such bodies allow their members to participate in a meeting by electronic means; and</li> <li>(4) State universities and community colleges are no longer are required to create and submit an annual report on reduction of petroleum use in their motor vehicle fleets.</li> </ol> <p><i>Effective May 21, 2012.</i></p>



**LEGAL**

**Public Chapter 926**

**Allows access to protected health information in healthcare liability legal action.** Upon the filing of any healthcare liability action, the named defendant may petition the court for a qualified protective order allowing the defendant and their attorneys the right to obtain protected health information during interviews, outside the presence of claimant or claimant's counsel, with the relevant patient's treating healthcare providers. Such petition will be granted under the following conditions:

- (1) The petition must identify the treating healthcare provider for whom the defendant seeks a qualified protective order to conduct an interview;
- (2) The claimant may file an objection seeking to limit or prohibit the defendant's counsel from conducting the interviews, which may be granted only upon good cause shown that a treating healthcare provider does not possess relevant information as defined by the Tennessee Rules of Civil Procedure; and
- (3) The qualified protective order must expressly limit the dissemination of any protected health information to the litigation pending before the court.

Any disclosure of protected health information by a health care provider in response to a court order under health care liability action statute will be deemed a permissible disclosure under Tennessee law, any Tennessee statute or rule of common law notwithstanding. This law further specifies that the health care liability action provisions do not restrict in any way, the right of a defendant or defendant's counsel from conducting interviews outside the presence of claimant or claimant's counsel with the defendant's own present or former employees, partners, or owners concerning a health care liability action.

*Effective July 1, 2012 and applies to all healthcare liability actions commenced on or after July 1, 2012*

**Public Chapter 966**

**Revises and enacts provisions governing public officials receiving a benefit not otherwise authorized by law.** For the purposes of this act, a public servant is elected, a candidate, selected, appointed, or employed as an agent of government. This bill specifies that a public servant receives a benefit not authorized by law if the public servant: (1) Purchases real property or obtains an option to purchase real property if the public servant knows that such real property may be purchased by a governmental entity and such information is not public knowledge; or (2) Under color of office or employment, communicates, directly or indirectly with the executive officer of the governmental entity concerning the purchase of real property described in (1), or communicates, directly or indirectly, with a person designated by such executive officer or by the charter or governing document of the governmental entity as the person authorized to make the decision that a governmental entity purchase real property described in (1) that the public servant owns or owns an option to purchase.

Ouster provisions will be instituted upon a conviction. In addition, any person convicted of such offense would forever afterwards be disqualified from holding any office under the laws or constitution of this state.

Effective July 1, 2012.

LEGAL	
<b><u>Public Chapter 976</u></b>	<p><b>Blind Vending.</b> This law provides that nothing in present law regarding vocational services for the blind/blind vendors will limit the ability of an institution that is governed by the University of Tennessee or the state university and college system to contract for food services (cafeterias, restaurants, food courts and catering services) in new buildings or on new campuses provided that a site suitable to the institution, after consultation with the department, is also made available for a blind vendor to manage and operate automated vending machines and/or a counter service as jointly agreed to by the institution and department in the new building or on the new campus.</p> <p>TBR attorneys are working on specific guidance for institutions related to the implementation of this act.</p> <p><i>Effective May 10, 2012.</i></p>
<b><u>Public Chapter 1061</u></b>	<p><b>Enacts the Eligibility Verification for Entitlements Act.</b> This bill requires each agency and political subdivision of the state, except where prohibited by federal law, to verify the lawful presence in the U.S. of each person 18 years of age and older who applies for state, local, or federal public benefits valued above \$500 from an agency or political subdivision of this state. Verification of eligibility by the agency or political subdivision under this bill would require that the applicant execute an affidavit under penalty of perjury that: the applicant is a United States citizen or is a qualified alien under federal law. Some health care services, like emergency treatment, immunization, and treatment for communicable diseases are excluded as are legal services and other services for the indigent and short term disaster support. Other services specified by the Attorney General are also exempt.</p> <p>The act requires each government agency to provide the General Assembly an annual report on June 30<sup>th</sup> each year of how the governmental agency is complying with the law.</p> <p>The Free Application for Federal Student Aid (FAFSA) can be used to validate eligibility for public benefit in public higher education. Attorneys from TBR and UT are preparing guidance for institutions.</p> <p><i>Effective October 1, 2012 for all applications for benefits submitted to state governmental entities or local health departments.</i></p>
LOTTERY	
<b><u>Public Chapter 787</u></b>	<p><b>Lottery Scholarships.</b> Requires THEC to make recommendations for changes to the lottery scholarship eligibility for GED recipients in light of impending changes to the GED test by the American Council on Education; requires the department of labor and workforce development, with the assistance of the department of education, the state board of education, and THEC to develop and implement a program for individuals who did not graduate from high school that will provide a means, other than the GED, to obtain a credential signifying completion of high school or its equivalent.</p> <p><i>Effective April 23, 2012.</i></p>
<b><u>Public Chapter 1095</u></b>	<p><b>Allows independent postsecondary schools accredited by SACS to continue receiving lottery scholarship funding through 2016.</b> This bill applies to the Art Institute of Nashville and allows students there to be eligible to receive the Tennessee HOPE lottery scholarships until June 30, 2016.</p> <p><i>Effective May 21, 2012.</i></p>

<b>STUDENT AFFAIRS</b>	
<b><u>Public Chapter 656</u></b>	<p><b>Requires high schools to send dual enrollment students' vaccination records to higher education institutions.</b> Requires high schools to forward vaccination records to higher education institutions on behalf of a dual enrollment student upon request of the student's parent or guardian. The state board of education is authorized to promulgate rules to implement this act.</p> <p><i>Effective April 4, 2012.</i></p>
<b><u>Public Chapter 772</u></b>	<p><b>Special education diploma.</b> Requires a special education diploma be awarded to students who have satisfactorily completed an individualized education program and who have adequate records of attendance and conduct, but who have not met the proficiency testing requirements established under <i>Tennessee Code Annotated</i>, Title 49, Chapter 6, Part 60.</p> <p><i>Effective July 1, 2012.</i></p>
<b><u>Public Chapter 774</u></b>	<p><b>Tennessee Intercollegiate State Legislature Foundation.</b> Extends the deadline for raising matching funds for Tennessee Intercollegiate State Legislature Foundation from June 30, 2012, to December 31, 2012, by delaying reversion of existing appropriation to general fund until December 31, 2012.</p> <p><i>Effective April 19, 2012.</i></p>
<b><u>Public Chapter 788</u></b>	<p><b>Permits certain Tennessee veterans who are students at public institutions of higher education to register for classes prior to the general student population.</b> A military veteran who is a current resident of this state or whose home of record for military purposes is Tennessee and who is a student at a public institution of higher education shall be allowed to register for classes prior to the general student population at any public institution of higher education. Early registration shall occur using the same procedure used by student athletes, disabled students and honor students, if such groups are permitted to early register. "Military veteran" means a person who has entered and served honorably in the United States armed forces on active duty, active national guard or active reserves.</p> <p><i>Effective April 27, 2012.</i></p>
<b><u>Public Chapter 918</u></b>	<p><b>Interest inventory assessments for students.</b> Requires availability of inventory assessments such as: the Kuder assessment, Myers-Briggs Type Indicator personality inventory, the Armed Services Vocational Aptitude Battery (ASVAB), EXPLORE by ACT, Inc., or MyRoad by the College Board to all public postsecondary students beginning in their freshman year as a follow up to the interest inventory available to all public middle schoolers or ninth graders to further assist students in determining their interests and in making career decisions.</p> <p>Summary data obtained from the interest inventories and personality profiles administered shall be sent annually by the postsecondary institutions to the state board of education. The state board shall consider the data in making decisions concerning curricula for public school students that is relevant to their career decisions and academic strengths and weaknesses.</p> <p><i>Effective July 1, 2012.</i></p>

## STUDENT AFFAIRS

### **Public Chapter 1061**

**Enacts the Eligibility Verification for Entitlements Act.** This bill requires each agency and political subdivision of the state, except where prohibited by federal law, to verify the lawful presence in the U.S. of each person 18 years of age and older who applies for state, local, or federal public benefits valued above \$500 from an agency or political subdivision of this state. Verification of eligibility by the agency or political subdivision under this bill would require that the applicant execute an affidavit under penalty of perjury that: the applicant is a United States citizen or is a qualified alien under federal law. Some health care services, like emergency treatment, immunization, and treatment for communicable diseases are excluded as are legal services and other services for the indigent and short term disaster support. Other services specified by the Attorney General are also exempt.

The act requires each government agency to provide the General Assembly an annual report on June 30<sup>th</sup> each year of how the governmental agency is complying with the law.

The Free Application for Federal Student Aid (FAFSA) can be used to validate eligibility for public benefit in public higher education. Attorneys from TBR and UT are preparing guidance for institutions.

*Effective October 1, 2012 for all applications for benefits submitted to state governmental entities or local health departments.*

### **Public Chapter 1077**

**Removes Williamson and other counties from Move on When Ready Act.** The law excludes Williamson County from move on when ready. The act allows a public school student to complete an early high school graduation program and be eligible for unconditional entry into a public two-year institution of higher education or conditional entry into a public four-year institution of higher education, if the student meets certain requirements.

*Effective May 21, 2012.*