



November 07, 2024

Penalties and Remedies for Noncompliance

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Reference Number: CTAS-2427

Any action taken at a meeting in violation of the Sunshine Law is void. T.C.A. § 8-44-105. While this provision does not forever bar a public body from subsequently ratifying an action taken in violation of the act, it does not allow a public body to ratify an action in a subsequent meeting by perfunctory affirmation of its earlier action. In order to remedy a violation of the Sunshine Law, however, the ultimate decision must be made at a meeting that satisfies the Sunshine Law and there must be new and substantial reconsideration of the issues involved. *Neese v. Paris Special School District*, 813 S.W.2d 432 (Tenn. Ct. App. 1990); *Johnston v. Metropolitan Gov't of Nashville and Davidson County*, 320 S.W.3d 299 (Tenn. Ct. App. 2009), permission to appeal denied (Tenn. 2010). Even if a subsequent meeting is held in compliance with the Sunshine Law, the ratification and confirmation of an action will not remedy a prior violation of the Sunshine Law if it is merely a "perfunctory rubber stamp." *Souder v. Health Partners, Inc.*, 997 S.W.2d 140 (Tenn. Ct. App. 1998).

Under the act, any citizen may bring an action in circuit court, chancery court, or any court of equity to enforce the Sunshine Law. These courts are given broad authority to issue injunctions, impose penalties, and otherwise enforce the purposes of the act. Courts are authorized to assess all or part of petitioners' costs, including attorneys' fees, against the governing body if the court finds the body willfully refused to comply with the open meetings act. In deciding whether the body's actions were willful, authorizes the court to consider the testimony and other guidance provided to the body by the office of open records counsel. T.C.A. § 8-44-106.

Questions concerning the application of this law may be referred to the county attorney or the CTAS staff.

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