

# COMPARISON OF ACTUAL AND ESTIMATED FISCAL NOTE IMPACTS



PRESENTATION TO THE FISCAL REVIEW COMMITTEE

Fiscal Review Committee Staff

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# Public Chapter 201 of 2009

Effective July 1, 2009. Created a new Class C misdemeanor, subject only to a fine not to exceed \$50 and court costs not to exceed \$10, for the offense of text-messaging on a hand-held mobile telephone or a personal digital assistant while operating a moving motor vehicle on any public road or highway.

## **Estimated fiscal impact at time of passage:**

**Increase State Revenue - \$41,600/Recurring**

**Increase State Expenditures - \$10,500/One-Time**

**Increase Local Revenue - \$2,200/Recurring**

**Increase Local Expenditures – Not Significant**

## Assumed:

- Average of 10 violations per day state-wide or 3,650 violations with a fine of \$15.
- Twenty percent would not pay due to indigence. Local government would receive five percent.
- Increase to state revenue was estimated to be \$41,600 ( $3,650 \times \$15 \times 80\% \times 95\%$ ).
- Increase to local revenue was estimated to be \$2,200 ( $3650 \times \$15 \times 80\% \times 5\%$ ).
- One-time software modifications at a cost of \$10,500 for the Department of Safety.

# Public Chapter 201 (continued)

## **Fiscal impact since enactment:**

**Increase State Revenue - \$2,100/Recurring**  
**Increase State Expenditures – Not Significant**

**Increase Local Revenue – Not Significant**  
**Increase Local Expenditures – Not Significant**

Other Fiscal Impact – According to the Department of Safety, the Department did not incur any outside costs for computer related modifications. Such modifications were completed by DOS Information Technology staff. DOS estimates that the value of time allocated for such modifications to have been approximately \$11,000. (Time value is not included in fiscal note cost estimates.)

- The \$2,100 increase to state revenue is derived from 49 violations for texting while driving in FY09-10.

# Public Chapter 348 of 2009

Effective July 1, 2009. Created a wine direct shipper license allowing wine manufacturers or suppliers licensed in Tennessee or any other state to ship up to nine liters (12 bottles) of wine per month and up to 27 (36 bottles) liters per year directly to a resident.

## **Estimated fiscal impact at time of passage:**

**Increase State Revenue – Net Impact - \$3,888,200/General Fund/FY09-10**  
**Net Impact - \$7,926,000/General Fund/FY10-11 and**  
**Subsequent Years**

**\$150,000/ABC Fund/FY09-10**

**\$75,000/ABC Fund/FY10-11 and Subsequent Years**

**Increase State Expenditures - \$37,600/One-Time**  
**\$33,800/Recurring**

**Increase Local Revenue - \$937,500/FY09-10**  
**\$1,900,000/FY10-11 and Subsequent Years**

Assumed:

- 10 percent of the 5,000 wineries in the U.S. would apply for a direct shipper license.
- A new position for the Alcoholic Beverage Commission (ABC) resulting in \$33,600 in recurring expenditures and \$4,800 one-time.
- A one-time increase in expenditures of \$32,800 and \$200 recurring for computer modifications at the Department of Revenue.

# Public Chapter 348 (continued)

## **Fiscal impact since enactment:**

**Increase State Revenue – ???/General Fund/FY09-10**

**\$96,900/ABC Fund/FY09-10**

**\$29,100/ABC Fund (As of October 11, 2010)**

**Increase State Expenditures - \$33,600/Recurring**

- 323 new licenses issued in FY09-10 resulting in \$96,900 in revenue to the ABC Fund (323 x \$300 per license).
- 43 new licenses issued to date in FY10-11 resulting in \$12,900 in revenue to the ABC Fund (43 x \$300 per license).
- 108 licenses renewed thus far in FY10-11 resulting in \$16,200 in revenue to the ABC Fund (108 x \$150 per renewal).
- ABC hired one administrative assistant resulting in an increase in expenditures of \$33,647.83 (\$23,304 salary + \$10,343.83 benefits).
- The Department of Revenue has not provided any information regarding the collection of tax revenue or any increase in expenditures associated with computer upgrades and maintenance.

# Public Chapter 556 of 2009

Effective July 1, 2009. Merged the Tennessee Registry of Election Finance and the Tennessee Ethics Commission into the Bureau of Ethics and Campaign Finance.

## **Estimated fiscal impact at time of passage:**

**Increase State Expenditures - \$59,800/One-Time**

**Decrease State Expenditures - \$316,200/Recurring**

## Assumed:

- Nine staff positions will transfer from the Ethics Commission to the new Bureau until August 10, 2009. On August 11, 2009, three of these positions will be eliminated, leaving six continuing positions resulting in a reduction in expenditures of \$293,600.
- One-time moving costs of \$15,000 and one-time internet portal and printing costs of \$10,000.
- One-time costs of \$34,800 for nine positions from July 1, 2009, through August 10, 2009.
- Net cost savings of \$22,558 in lease agreements.

# Public Chapter 556 (continued)

## Fiscal impact since enactment:

**Increase State Expenditures - \$37,800/One-Time/FY09-10**

**Decrease State Expenditures - \$379,500/Recurring**

- Actual expenditures for the Registry of Election Finance and Ethics Commission were a combined \$1,370,793 in FY08-09. Actual expenditures for the Bureau in FY09-10 were \$991,304 resulting in a decrease in expenditures of \$379,489. Of the \$379,489 in reduced expenditures, \$298,799 is based on the elimination of three staff positions and three other positions remaining vacant.
- One-time increase in expenditures of \$37,800 for the positions eliminated August 2009 and lease costs. This amount also includes lease costs that were incurred by the Ethics Commission prior to the merger but were charged to the Bureau after the merger.
- The Bureau's budget for FY09-10 was \$1,181,100. Unspent funds are placed into a reserve account for data processing expenditures that may occur in the future. Approximately \$189,796 ( $\$1,181,100 - \$991,304$ ) was unspent and placed in the reserve.
- The Bureau did not incur one-time moving costs of \$15,000 or one-time Internet portal and printing costs of \$10,000.

# Public Chapter 591 of 2009

January 1, 2010. Created the Commercial Breeder Act requiring the Department of Health to license and regulate individuals who keep 20 or more unsterilized female dogs or cats for purposes of breeding and sale of offspring as companion animals.

## **Estimated fiscal impact at time of passage:**

**Increase State Revenue - \$316,800/FY09-10/Commercial Breeder Account  
\$633,600/FY10-11/Commercial Breeder Account  
\$1,056,000/FY11-12 through FY14-15/Commercial Breeder Account**

**Increase State Expenditures - \$140,800/One-Time/Commercial Breeder Account  
\$412,300/FY09-10/Commercial Breeder Account  
\$633,600/FY10-11/Commercial Breeder Account  
\$1,056,000/FY11-12 through FY14-15/Commercial Breeder Account**

**Increase Local Revenue – Exceeds \$181,000/FY09-10  
Exceeds \$383,800/FY10-11  
Exceeds \$914,200/FY11-12 through FY14-15**

**Increase Local Expenditures – Exceeds \$1,000,000/Recurring**

# Public Chapter 591 (continued)

## Assumed:

- 500 licensed breeders by FY11-12.
- Revenue from licensees and sales tax.
- Twenty percent of licensees paying \$1,000 registration fee and annual renewal fee for breeding 41 or more females.
- Eighty percent of licensees paying \$500 registration fee and annual renewal fee for breeding 20 - 40 females.
- Seven new positions within the Department of Health.

# Public Chapter 591 (continued)

## Fiscal impact since enactment:

**Increase State Revenue – \$0/FY09-10**

**\$5,500/FY10-11**

**Increase State Expenditures - \$156,500/FY09-10**

**\$79,100/FY10-11 (as of October 21, 2010)**

**\$377,800/Recurring**

- Licensure revenue from the seven licenses and applications was \$5,500 (3 x \$500 and 4 x \$1,000).
- Six new positions at the Department of Health at a recurring cost of \$377,800.
- According to MTAS and CTAS, there has not been any fiscal impact to local governments.

# Public Chapter 1129 of 2008

June 13, 2008. Required the Department of Correction (DOC) in conjunction with the Department of Human Resources to study the issue of education and state employment for persons convicted of non-violent criminal offenses and to report to the General Assembly by March 1, 2009.

## **Estimated fiscal impact at time of passage:**

**Increase State Expenditures - \$75,000/One-Time**

Assumed:

- A one-time cost of \$75,000 for the DOC to hire a consultant to gather the necessary information, determine guidelines and qualifications for the State to consider hiring non-violent offenders, and measures that need to be taken to increase educational and skills training at youth and adult detention facilities.

## **Fiscal impact since enactment:**

**Increase State Expenditures – Not Significant**

- DOC decided to complete the research in-house and did not hire the consultant. The \$75,000 reverted back to the general fund.

# Public Chapter 1201 of 2008

Effective June 20, 2008. Created the Tennessee Bureau of Investigation Drug Chemistry Unit Testing Fund and imposed a \$100 drug testing fee to be assessed upon conviction of a violation of the Tennessee Drug Control Act.

## **Estimated fiscal impact at time of passage:**

**Increase State Revenue - \$520,300/TBI Drug Chemistry Unit Testing Fund**

**Increase State Expenditures - \$520,300/TBI Drug Chemistry Unit Testing Fund**

**\$30,400/One-Time/General Fund**

## Assumed:

- According to TBI statistics, there were approximately 36,000 arrests for drug-related offenses in 2006. The increase in state revenue would depend on the number of convictions. Sufficient revenue will be generated from the \$100 fee to fund the costs of the bill.
- Recurring expenditures of \$520,279 for three positions, equipment, and various related expenses.
- The Department of Revenue (DOR) will incur one-time computer programming costs of \$30,400.

# Public Chapter 1201 (continued)

## **Fiscal impact since enactment:**

**Increase State Revenue - \$211,800/FY08-09/Drug Chemistry Unit Testing Fund**  
**\$640,300/FY09-10/Drug Chemistry Unit Testing Fund**  
**\$85,400/FY10-11/Drug Chemistry Unit Testing Fund**  
**(as of August 31, 2010)**

**Increase State Expenditures - \$300,000/Recurring/Drug Chemistry Unit Testing Fund**  
**\$30,400/One-Time/General Fund**

- Expenditures of \$300,000 are for three positions and funding for the purchase of equipment and supplies.
- DOR incurred in-house costs to change the litigation fines and fees return, computer upgrades, addition of new debit and credit memos, and for changes to the apportionment for revenue accounting. The 550 hours of programming was spread out over three months between four analysts and five programmers due to workloads and other priorities.

# Public Chapter 368 of 2007

Effective July 1, 2007. Increased the cigarette tax from 20 cents to 62 cents per pack. All cigarette tax revenue is deposited to the Education Fund, provided that \$21,000,000 be allocated to the Department of Agriculture for the Tennessee Agriculture Enhancement Program and earmarks two cents of total increase to the Trauma System Fund.

## **Estimated fiscal impact at time of passage:**

**Increase State Revenue – \$239,184,000/Recurring**

**Increase State Expenditures – \$200,000/One-Time/Department of Revenue**

**\$220,000/Recurring/Department of Revenue**

**\$21,000,000/Recurring/Department of Agriculture**

**Increase Local Revenue – \$4,134,000**

# Public Chapter 368 (continued)

## Assumed:

- Incremental excise tax revenue from the first 40-cent increase is estimated at \$218,731,000.
- Additional two-cents per pack estimated to generate \$9,716,000 in excise tax revenue earmarked for the Trauma System Fund.
- Incremental sales tax revenue is estimated at \$11,254,000.
- Incremental local option sales tax revenue is estimated at \$3,617,000.
- State-shared sales tax revenue is estimated to increase local government revenue by \$517,000.
- Three additional Regulatory Officers in the Department of Revenue and security upgrades for cigarette tax stamps resulting in a recurring increase in expenditures of \$220,000 and a one-time increase in expenditures of \$200,000.

# Public Chapter 368 (continued)

## Fiscal impact since enactment:

**Increase State Revenue – Net Impact – \$150,604,309/FY07-08  
\$184,073,686/FY08-09**

**Increase State Expenditures – \$21,000,000/FY07-08 & FY08-09/**

**Department of Agriculture  
\$228,000/Recurring/Department of Revenue  
\$81,300/One-Time/Department of Revenue**

**Increase Local Revenue - \$3,323,200/FY07-08  
\$4,082,300/FY08-09**

**Other Fiscal Impact – The Department of Agriculture’s allocations for FY09-10 and  
FY10-11 were reduced from \$21,000,000 to \$16,300,000.**

# Public Chapter 368 (continued)

- According to the Department of Revenue (DOR), cigarette excise tax collections for FY06-07 (the fiscal year immediately prior to the excise tax increase) were approximately \$127,121,000.
- Cigarette excise tax collections for FY07-08 were approximately \$260,047,000; collections for FY08-09 were approximately \$290,413,000.
- Excise tobacco tax collections increased approximately \$132,926,000 in FY07-08 (\$260,047,000 - \$127,121,000) and \$163,292,000 in FY08-09 (\$290,413,000 - \$127,121,000).
- State sales tax revenue increased approximately \$9,304,800 in FY07-08 (\$132,926,000 x 7.0% state rate) and approximately \$11,430,400 in FY08-09 (\$163,292,000 x 7.0% state rate).
- Local option sales tax revenue increased approximately \$3,323,200 in FY07-08 (\$132,926,000 x 2.5% average local option rate) and approximately \$4,082,300 in FY08-09 (\$163,292,000 x 2.5% average local option rate).
- Recurring expenditures for the three revenue enforcement officers and the cigarette fusion tax stamps have been approximately \$228,000 per year. DOR absorbed the additional \$8,000 per year (relative to the fiscal memo estimate).
- One-time expenditures to implement this legislation were approximately \$81,300. The Department eventually reverted the balance (\$200,000 - \$81,300 = \$118,700) back to the General Fund.
- According to the Department of Agriculture, the Department's \$21,000,000 allocation was reduced to \$16,300,000 for FY09-10 and for FY10-11.

# Public Chapter 600 of 2007

Effective June 28, 2007. Created a one-time three-day sales tax holiday for clothing with a sales price not exceeding \$100 per item, for school supplies with a sales price not exceeding \$100 per item, and for computers with a sales price not exceeding \$1,500 per item.

Effective January 1, 2008. Reduced the state sales tax rate on food and food ingredients from six percent to five and one-half percent.

## **Estimated fiscal impact at time of passage:**

**Decrease State Revenue – Net Impact - \$29,899,000/FY07-08**

**\$38,860,000/FY08-09 and Subsequent Years**

**Increase State Expenditures - \$3,527,000/FY07-08**

**Decrease Local Revenue – Net Impact - \$1,439,000/FY07-08**

**\$1,870,000/FY08-09 and Subsequent Years**

# Public Chapter 600 (continued)

## Assumed:

- Taxable sales are estimated to be \$156,750,000 in March 2008.
- Decrease to state sales tax in FY07-08 estimated to be \$10,973,000.
- Local governments will be held harmless from the loss of state-shared sales tax and local option sales tax revenue.
- One-time decrease to local government revenue in FY07-08 due to a loss of state-shared sales tax revenue is estimated to be \$504,000.
- Net decrease of state revenue is \$10,469,000 (\$10,973,000 - \$504,000).
- Net increase of state expenditures is \$3,527,000 (\$156,750,000 x 2.25% local option tax rate) for holding local governments harmless.
- Taxable sales of food and food ingredients for FY07-08 were estimated to be \$8,146,126,000.
- Recurring decrease in state sales tax revenue is estimated to be \$40,730,000 (\$8,146,126,000 x .5%) each full fiscal year.
- Local governments will not be held harmless from the loss of state-shared sales tax revenue.
- Recurring decrease of local government revenue is estimated to be \$1,870,000 per year (\$40,730,000 x 4.5925% share).
- The first-year impact (FY07-08) is estimated at 50 percent of the first full-year impact (FY08-09) due to the proposed effective date.

# Public Chapter 600 (continued)

## **Fiscal impact since enactment:**

**Decrease State Revenue – Net Impact - \$21,421,500/FY07-08  
\$30,843,000/FY08-09 and Subsequent Years**

**Increase State Expenditures - \$2,000,000/FY07-08**

**Decrease Local Revenue – Net Impact - \$708,200/FY07-08  
\$1,416,500/FY08-09 and Subsequent Years**

- One-time sales tax holiday in March 2008 resulted in a one-time decrease in state sales tax revenue of \$6,000,000 and a one-time increase to state expenditures of \$2,000,000 for holding the local governments harmless from the loss of local option sales tax revenue.
- One-time decrease to local government revenue from the loss of state-shared sales tax revenue during March 2008 is estimated to have been \$275,600 ( $\$6,000,000 \times 4.5925\%$ ).
- Reduction of sales tax collections derived from eligible food sales in calendar year 2007 (\$512,190,000) to calendar 2008 (\$481,347,000) are estimated to be \$30,843,000. The one-time impact for FY07-08 is estimated to be \$15,421,500 which is 50 percent of the estimated full year impact.
- Decrease to local government revenue as a result of reduced state-shared sales tax revenue derived from eligible food sales is estimated to have been \$708,232 ( $\$15,421,500 \times 4.5925\%$ ) in FY07-08 and \$1,416,500 ( $\$30,843,000 \times 4.5925\%$ ) in FY 08-09.

# Public Chapter 624 of 2006

Effective July 1, 2006. Reduced sentenced for eligible offenders receiving 60 days of credit for completion of various educational and vocational programs.

## **Estimated fiscal impact at time of passage:**

**Decrease State Expenditures - \$525,400/FY06-07 and FY07-08**  
**\$362,400/FY08-09 and FY09-10**  
**\$163,100/FY10-11 and FY11-12**  
**\$235,500/FY12-13 and FY13-14**  
**\$525,400/FY14-15 and FY15-16**

## Assumed:

- 598 inmates received GEDs and 1,765 received vocational certificates in FY04-05. Approximately 60 percent would be eligible for reduced sentences (2,363 offenders x 60% = 1,418 offenders).
- Impact is weighted over a 10-year period to account for varying length of sentences.
- The reduction in expenditures would be reflected in the cost to the Department of Correction to house state felons in county jails. The housing per diem for the county jails for FY05-06 was \$42.59.

# Public Chapter 624 (continued)

## Fiscal impact since enactment:

**Decrease State Expenditures - \$2,672,816/FY06-07**  
**\$5,908,722/FY07-08**  
**\$1,913,100/FY08-09**  
**\$1,787,027/FY09-10**

## Assumed:

- In FY06-07 there were 1,472 offenders who received 60 days credit at a per diem rate of \$47.43.
- In FY07-08, there were 2,102 offenders who received 60 days credit at a per diem rate of \$46.85.
- In FY08-09, there were 700 offenders who received 60 days credit at a per diem rate of \$45.55.
- In FY09-10, there were 639 offenders who received 60 days credit at a per diem rate of \$46.61.

# Public Chapter 867 of 2006

Effective July 2, 2006. Enacted the Diabetes Prevention and Health Improvement Act which created the Cover Tennessee Health Care programs and the Diabetes Prevention programs.

## **Estimated fiscal impact at time of passage:**

**Increase State Expenditures - \$34,675,500/FY06-07**

**\$80,246,400/FY07-08**

**Increase Federal Expenditures - \$20,626,500/FY06-07**

**\$63,739,200/FY07-08**

## Assumed:

- CoverTN program would increase expenditures \$9,000,000 for FY06-07 and \$34,000,000 in FY07-08.
- The CoverKids program would enroll 26,797 children by the end of the first year resulting in an increase in expenditures of \$27,502,000 (\$6,875,500 state and \$20,626,500 federal). A 20 percent increase per quarter in FY07-08 resulting in an increase in expenditures of \$84,985,700 (\$21,246,400 state and \$63,739,200 federal).
- AccessTN program would receive \$3,800,000 in FY06-07 and \$10,000,000 in FY07-08 from existing Health Care Safety Net Funds.
- The Diabetes Prevention program would receive \$15,000,000 annually from existing Health Care Safety Net Funds.

# Public Chapter 867 (continued)

## Fiscal impact since enactment:

**Increase State Expenditures - \$33,832,100/FY06-07**  
**\$61,550,200/FY07-08**  
**\$69,221,700/FY08-09**

**Increase Federal Expenditures - \$17,297,400/FY06-07**  
**\$60,135,400/FY07-08**  
**\$76,779,800/FY08-09**

- Enrollment started lower than expected. In June 2007, CoverTN had 3,434 enrollees, CoverKids had 1,716 enrollees, and AccessTN had 1,212 enrollees. Enrollment in all three programs has increased each year. As of June 2010, CoverTN had 20,906 enrollees, CoverKids had 43,364 enrollees, and AccessTN had 3,872 enrollees.
- The Diabetes Prevention program was transferred by Executive Order No. 51 to the Department of Health. Expenditures for the Center administering the grant program and the grants themselves are as follows:
  - \$3,641,186/FY06-07
  - \$9,108,181/FY07-08
  - \$11,337,239/FY08-09

# Public Chapter 973 of 2006

Effective June 1, 2006. Created a new Class C felony offense of “statutory rape by an authority figure.” Required convicted offender to serve entire sentence, undiminished by sentence reduction credits, and mandated that the offender is ineligible for diversion or probation.

## **Estimated fiscal impact at time of passage:**

**Increase State Expenditures - \$597,400/Incarceration**

### Assumed:

- 26 offenders will serve an additional 0.6 years at a cost of \$285,009.
- 19 offenders who would have received a non-incarceration sentence under current law will now serve 0.9 years at a cost of \$312,418.

# Public Chapter 973 (continued)

## Estimated fiscal impact using current method:

### Increase State Expenditures - \$2,079,000/Incarceration

#### Assumed:

- 17 offenders [23 + 3 (population growth) – 9 (recidivism)] serving an additional 1.95 years for statutory rape by an authority figure rather than statutory rape. Increase cost per offender of \$42,634.68 x 17 offenders = \$724,789.56.
- 19 offenders [17 + 2 (population growth)] going from a misdemeanor to a Class C felony serving 3.26 years at a cost of \$71,276.50 results in an increase in expenditures of \$1,354,253.50.

# Public Chapter 973 (continued)

## Estimated fiscal impact since enactment:

### Increase State Expenditures - \$313,100/Incarceration

#### Assumed:

- Four admissions for statutory rape by an authority figure rather than statutory rape. Increase in cost per offender of \$42,634.68 x 4 offenders = \$170,538.72
- Two admissions for statutory rape by an authority figure rather than a misdemeanor at a cost of \$71,276.50 results in an increase in expenditures of \$142,553.