Comparison of Actual and Estimated Impacts for Selected Fiscal Notes (Public Chapter 824 of 2010)

Presented by
Lucian Geise, Executive Director
Fiscal Review Committee

August 26, 2014

Public Chapter 3 of the First Extraordinary Session of 2010

Effective January 26, 2010

The Complete College Act required a statewide master plan for the future development of Tennessee's two main college and university systems and technology centers and required the creation of common statewide articulation agreements. Four-year institutions were prohibited from offering remedial or development courses. The University of Tennessee (UT) was authorized to create a joint academic and research partnership with Oak Ridge National Laboratory (ORNL) and the law made other various revisions to the laws regarding higher education.

Estimated fiscal impact at time of passage:

Increase State Expenditures - $1,037,000/FY10-11
$1,744,000/FY11-12
$3,411,500/FY12-13

Other Fiscal Impact – Substantial funds from recurring appropriations of state revenue and other funding sources will be shifted from existing programs and activities of THEC, TBR, and UT to fund development and implementation of the new statewide master plan for higher education, articulation agreements between two-year and four-year public institutions, and remedial education programs. THEC, TBR, and UT are unable to specify the amount of funds and resources that will be shifted and are unable to identify the current programs that will be affected. New state appropriations to fund these activities will not be made.

The first three years of the UT-ORNL collaboration agreement will require a non-recurring state appropriation totaling $6,192,500. Expenditures from this appropriation will be spread over three fiscal years. Non-recurring funding in the amount of $6,000,000 is included in the appropriations bill to fund this legislation. If the federal grants and contract monies available for the UT-ORNL collaboration agreement at the end of the three-year state appropriation period for FY13-14 and thereafter are not enough to fully fund the program, the program will be scaled back or another source of funds will be required.

Assumed:

- State funding for the UT-ORNL partnership will be spent according to the table below:

	FY10-11	**FY11-12**	**FY12-13**	**Total**
Tech. Preparation	$150,000			$200,000
Operating	$80,000	$35,000		$115,000
Tech./Clerical Support	$128,000	$50,000		$178,000
Recruiting	$15,000	$45,000	$97,500	$157,500
Graduate Stipend	$300,000	$900,000	$1,950,000	$3,150,000
Tuition/Waiver Fees	$200,000	$600,000	$1,300,000	$2,100,000
Center Director	$64,000	$64,000	$64,000	$192,000
Facilities	$100,000			$100,000
Total	**$1,037,000**	**$1,744,000**	**$3,411,500**	**$6,192,500**

- Funding for the program in FY13-14 and thereafter will come from federal research grant money obtained by the collaboration program research projects or from other sources. These funds will be used to fund the entire program. New state appropriations will not be made.
- Funding for operating and other program development costs will be funded from research grants or from some other source in FY12-13 and thereafter.
- UT estimates that there will be 10 graduate students in FY10-11, 30 in FY11-12, and 65 in FY12-13. Each graduate student will be paid a stipend of approximately $30,000. Each student will cost approximately $1,500 to recruit.
- Funding for a center director will come from one-half UT funding and one-half ORNL funding. In FY13-14 and thereafter, the director will be paid by UT from federal grant research funding or other sources.
- According to Tennessee Higher Education Commission (THEC), the Commission will not require additional state appropriations to develop a new master plan, new funding formulas, a common university tract program, and a common course numbering system.
- According to Tennessee Board of Regents (TBR), development of a unified community college system and establishing statewide relationships between community colleges and state technology centers will not require additional state appropriations.
- Setting up remedial class relationships between TBR and UT institutions and community colleges and carrying out those relationships will not require additional state appropriations.
- According to UT, any increase in expenditures to set up a new academic unit for interdisciplinary education and research in conjunction with ORNL will be absorbed within existing state resources.

Fiscal impact since enactment:

Shift in Existing State Expenditures - $231,000/Tennessee Transfer Pathways
$1,972,000/One-Time/Community College Office
$1,526,000/Recurring/Community College Office

Increase State Expenditures - Net Impact - $329,600/FY10-11/Bredesen Center
$770,400/FY11-12/Bredesen Center
$1,558,000/FY12-13/Bredesen Center
$1,961,800/FY13-14/Bredesen Center

Fiscal impact is based on the following:

- According to TBR, the Community College Office was created after the passage of the legislation, but FY13-14 was the first full year in which expenses were incurred. Those expenses, funded through existing appropriations made to TBR, include:
    - $1,526,000 in recurring expenses for personnel (a vice chancellor and one or two assistants) and other expenses incurred for daily operational costs; and
    - $1,972,000 in one-time expenses for TBR to undergo a community college marketing plan.
- According to TBR, funds in the amount of $230,960 ($5,774 x 40) have been expended on the Tennessee Transfer Pathways (TTPs) articulation agreement meetings. All funds are paid through existing appropriations made to TBR and UT.
    - To date, 40 TTPs have been developed.
    - Developing a TTP requires one meeting of all twenty-two institutions involved from both the UT and TBR systems.
    - The cost of lodging, per diems, and mileage per meeting is approximately $5,774.
    - Eight of the community colleges and universities do not receive lodging or per diems due to the close proximity to Nashville.
- According to UT, the Bredesen Center for Interdisciplinary Research and Graduate Education was created in the fall of 2010 as a joint partnership between the University of Tennessee Knoxville (UTK) and ORNL. Expenditures to date include:

	FY10-11	FY11-12	FY12-13	FY13-14	Total
Tech. Preparation	$3,800	$4,000	$0	$0	$7,800
Operating	$11,493	$15,104	$30,835	$21,562	$78,994
Tech./Clerical Support	$22,893	$107,680	$122,494	$183,255	$436,322
Recruiting	$40,188	$57,993	$43,946	$44,157	$186,283
Graduate Stipend	$82,500	$315,354	$483,731	$973,249	$1,854,833
Tuition/Waiver Fees	$5,017	$147,346	$320,597	$466,120	$939,079
Center Director	$161,700	$120,540	$184,406	$246,571	$713,218
Facilities	$1,986	$2,369	$372,008	$26,915	$403,277
Total	**$329,576**	**$770,386**	**$1,558,017**	**$1,961,828**	**$4,619,808**

- Current staff for the Bredesen Center includes 2.25 full-time employees and one part-time employee to assist in the clerical aspects required for the large number subcontracts through ORNL for partial or full support of the graduate students.
- The Center funds 67 percent of the salary and benefits of the center director (33 percent is funded by the Physics Department) and 10 percent of the salary and benefits of the assistant director (the other 90 percent comes from ORNL).
- Expenditures for FY14-15 are estimated to be $1,791,901 which includes operating ($25,000), technical/clerical support ($171,516), recruiting students ($48,000), graduate stipends ($860,703), tuition/fee waivers ($430,352), center director ($251,330), and facilities ($5,000).
- UTK contributes to the budget by retuning the full Facilities and Administrative costs recovery generated by ORNL contracts providing cost sharing for the Energy Science and Engineering PhD program. These funds are included as offsets in the amounts of actual and projected expenditures above.
- The five-year total costs (including FY14-15 projected expenditures) are estimated to be $6,411,709.

Public Chapter 398 of 2011

Effective June 6, 2011

The legislation created sales and use tax exemptions for the purchase of building supplies for construction of storm or tornado shelters at a claimant's primary residence purchased between July 1, 2011, and December 31, 2011. The maximum allowable refund was $2,500 per residence. The Department of Revenue (DOR) was authorized to assess civil penalties not to exceed $25,000 against any person who knowingly filed a false or fraudulent application.

Estimated fiscal impact at time of passage:

Decrease State Revenue – $129,900/One-Time
Forgone State Revenue - $259,600/One-Time

Decrease Local Revenue - $46,400/One-Time
Forgone Local Revenue - $92,900/One-Time

Assumed:

- Building supplies means trash bags, boxes, construction tools, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary hardware and other building supplies as determined by DOR.
- DOR will promulgate rules that provide confirmation that the building supplies were used for the exclusive purpose of building or improving a tornado or storm shelter.
- A state sales tax rate of 7.0 percent and an average local option sales tax rate of 2.5 percent.
- No state single article sales tax because all purchased building supplies will have a cost per item under $1,600 (the threshold at which the single article tax applies).
- This fiscal estimate does not take into account prefabricated tornado or storm shelters.
- According to DOR, the average cost of building a tornado or storm shelter is estimated to be $10,500, including supplies and labor. Building supplies are 70 percent of total pre-tax cost; labor is 30 percent. The total pre-tax cost of building supplies used to build an average tornado or storm shelter will be $7,350 ($10,500 x 70.0%).
- Combined state and local sales tax on building supplies to build an average tornado or storm shelter will total $698, consisting of $514 ($7,350 x 7.0%) in state sales tax and $184 ($7,350 x 2.5%) in local option sales tax.
- As a result of the proposed exemption, a purchaser of qualified building supplies will realize an effective 8.7 percent discount [$698 / ($7,350 + $698)] off the total cost of building supplies.
- Based on data obtained from the Federal Emergency Management Agency (FEMA) concerning grant programs that have been implemented in other states for the construction of storm shelters, such as the Alabama Safe Room Initiative (559 individual shelters were constructed), the Mississippi Safe Room – Storm Shelter Initiative (1,105 individual shelters were constructed), and the Oklahoma Residential Shelter Initiative (6,016 individual shelters were constructed), it is estimated that the proposed sales tax exemption will be a sufficient incentive for an average of 5 homeowners to build tornado or storm shelters in 89 counties, and an average of 10 homeowners to build tornado or storm shelters in the six largest populated counties, for a total of 505 constructed storm shelters across the state.

- Because these sales would not occur in the absence of this bill, the forgone state sales tax revenue will be $259,570 (505 x $514); the forgone local option sales tax revenue will be $92,920 (505 x $184).
- Building supplies that will be purchased for building tornado and storm shelters in the absence of this bill are estimated to be 50 percent of the sales that will occur as a direct result of enactment of the bill, resulting in a decrease in state revenue of $129,785 ($514 x 505 x 50.0%). The resulting decrease in local option sales tax revenue will be $46,460 ($184 x 505 x 50.0%).
- There will not be a sufficient number of fraud cases for the state to experience any significant increase in revenue from civil penalties.

Fiscal impact since enactment:

Decrease State Revenue - $12,600
Forgone State Revenue – Undeterminable

Decrease Local Revenue - $4,500
Forgone Local Revenue - Undeterminable

Fiscal impact is based on the following:

- According to the Department of Revenue, 45 refunds were paid totaling $17,165.55 for an average tax liability of approximately $381 ($17,165.55 / 45).
- Applying a 7.0 percent sales tax rate and 2.5 percent local option sales tax rate, the state portion is $12,648.30 [(7.0/9.5) x $17,165.55] and the local portion is $4,517.25 [(2.5/9.5) x $17,165.55].
- There is no way to determine how many of these purchases would occur in the absence of the bill, so the amount of forgone revenue is undeterminable. For the purposes of this analysis, the known impact is considered as a decrease in state and local revenue.

Public Chapter 423 of 2011

Effective July 1, 2011

The legislation required the Department of Safety (DOS) to issue a photo identification license free of charge to any person that has signed an affidavit stating: the person does not have a valid government issued photo identification; the person is a registered voter in this state; and the person needs the photo identification license for voting purposes.

Estimated fiscal impact at time of passage:

Decrease State Revenue – $21,600/Recurring
Forgone State Revenue - $449,800/FY11-12 and Every Five Years Thereafter

Increase State Expenditures - $15,500/One-Time
$422,600/FY11-12 and Every Five Years Thereafter

Assumed:

- DOS estimates that 126,262 registered voters hold either non-photo driver licenses or a non-photo identification only licenses. Of this number, 37,879 have non-photo identification only licenses and 88,383 have non-photo driver licenses.
- According to DOS, of the 37,879 individuals that have non-photo identification only licenses, approximately 26,497 are age 65 or older that have non-expiring non-photo identification only licenses; thus 11,382 have expiring non-photo identification only licenses.
- DOS indicates the only loss of fee revenue to the state will be attributable to the 11,382 individuals that have expiring non-photo identification licenses.
- The total fee for a photo identification license is $9.50 ($7.50 license fee + $2.00 application fee).
- Photo identification licenses are valid for five years.
- DOS indicates the annual loss of state fee revenue will be $21,626 [(11,382 x $9.50) x 20%].
- DOS estimates that 106,313 registered voters holding either a non-photo driver license or a non-photo identification only license will come to a driver license center within the next year to obtain their free photo identification license. The cost of producing the license is $2.75. The increase in state expenditures will be $292,361 (106,313 x $2.75) in FY11-12. This expenditure will recur every five years.
- DOS indicates that an additional 47,350 registered voters that currently do not hold either a driver license or identification only license will apply for the free photo license. The increase in state expenditures will be $130,213 (47,350 x $2.75) in FY11-12. This expenditure will recur every five years.
- The total increase in state expenditures for FY11-12, and every five years thereafter, will be $422,574 ($292,361 + $130,213).
- There will be a one-time increase in state expenditures of $15,500 for computer and programming costs.
- Due to the 47,350 registered voters that currently do not hold either a driver license or identification only license applying for a free photo identification license next year, when they would not have otherwise, there will be forgone state revenue of $449,825 (47,350 x $9.50). This forgone state revenue will recur every five years.

Fiscal impact since enactment:

Decrease State Revenue - $174,200/FY11-12
$30,700/FY12-13
$2,100/FY13-14

Forgone State Revenue - $113,000/FY11-12
$34,200/FY12-13
$2,700/FY13-14

Increase State Expenditures - Unknown/One-Time Programming Costs
$26,800/FY11-12
$8,100/FY12-13
$600/FY13-14

Fiscal impact is based on the following:

- The total fee for a photo identification license is $9.50 ($7.50 license fee + $2.00 application fee).
- Over the past three fiscal years, DOS has issued a total of 21,796 photo identification licenses free of charge to individuals who previously had non-photo identification licenses for a total decrease in state revenue of $207,062. The breakdown is as follows:
    - 18,339 x $9.50 = $174,220.50 in FY11-12;
    - 3,232 x $9.50 = $30,704 in FY12-13; and
    - 225 x $9.50 = $2,137.50 in FY13-14.
- Over the past three fiscal years, DOS has issued 15,785 free photo identification licenses to individuals who previously did not have an identification license for total forgone revenue of $149,958. The breakdown is as follows:
    - 11,894 x $9.50 = $112,993 in FY11-12;
    - 3,604 x $9.50 = $34,238 in FY12-13; and
    - 287 x $9.50 = $2,726.50 in FY13-14.
- The cost of producing a photo identification license is $2.25.
- DOS incurred $35,516 in increased expenditures over the past three fiscal years to produce photo identification licenses for the 15,785 individuals who previously did not have an identification license. The breakdown is as follows:
    - 11,894 x $2.25 = $26,761.50 in FY11-12;
    - 3,604 x $2.25 = $8,109 in FY12-13; and
    - 287 x $2.25 = $645.75 in FY13-14.
- According to DOS, the one-time increases in expenditures for programming costs cannot be determined because the department does not have the ability to separate the specific implementation costs from the costs expended regularly to the contractor.

Public Chapter 436 of 2011*

Effective January 1, 2012

The legislation required employers to request and maintain certain documentation of newly hired employees' citizenship or qualified alien status beginning January 1, 2012, for governmental entities and private employers with 500 or more employees; July 1, 2012, for employers with 200 to 499 employees; and January 1, 2013, for employers with six to 199 employees. Required the Department of Labor and Workforce Development (DLWD) to establish an Office of Employment Verification Assistance to assist employers without internet access to verify employees and authorizes DLWD to hire no more than one person to staff the Office. Prohibited the employment of unauthorized aliens. Established the Lawful Employment Enforcement Fund, to which all created civil penalties collected pursuant to this bill will be deposited, and from which funds will be used to administer these provisions.

Estimated fiscal impact at time of passage:

Increase State Revenue –
Exceeds $10,000/Recurring/Lawful Employment Enforcement Fund
Increase State Expenditures –
$6,000/One-Time/General Fund
$91,100/Recurring/General Fund
$10,000/Recurring/Lawful Employment Enforcement Fund

Assumed:

- The Commissioner of DLWD is authorized to issue warnings in lieu of penalties if the violation was unintentional or the violation is remedied within 60 days. Most employers will remedy violations to prevent the paying of civil penalties and the suspension or revocation of licenses. The amendment increases the fine for second and third violations and states that a separate penalty will be issued for each employee hired in violation of the bill as amended. The precise amount of revenue generated from civil penalties cannot be determined with available data. However, the increase in recurring state revenue from civil penalties is reasonably estimated to exceed $10,000. These monies will be deposited to the Lawful Employment Enforcement Fund.
- According to the Department of Revenue, any impact on economic development incentives will be not significant; employers will not risk the loss of funds.
- Any increase in expenditures for state or local government to verify new employees hired after January 1, 2012, will be not significant.
- DLWD will require one staff member to run the Office of Employment Verification Assistance. The recurring increase in state expenditures will be $52,187 ($32,910 salary + $13,017 benefits + $6,260 supplies and operational costs). One-time state expenditures for this position will be $6,000 (office supplies, computer, software, and equipment).
- One additional staff member will be required by DLWD in the Labor Standards Division, to receive complaints and follow up valid complaints with notices of alleged violations, process civil penalties, and receive and analyze documentation proving compliance. A recurring increase in state expenditures of $48,927 ($32,910 salary + $13,017 benefits + $3,000 supplies and postage).

- The total recurring increase in state expenditures will be $101,114 ($52,187 + $48,927). Monies deposited to the Lawful Employment Enforcement Fund will be utilized to pay a portion of these expenditures; the remaining expenses will require an annual appropriation from the General Fund.
- Directing an agency to use existing resources to perform a new function does not eliminate the fiscal impact of performing the new function since a new function that has a cost will reduce the agency's reversion or will require creation of additional position to perform duties of staff who have been redirected to the new function.

Fiscal impact since enactment:

State Revenue – No Impact/Lawful Employment Enforcement Fund

Increase State Expenditures - $1,300/One-Time/General Fund
$45,300/Recurring/General Fund
(Not -including $36,100 reversion for budgeted but currently vacant position)

Fiscal impact is based on the following:

- There has been no revenue generated for the Lawful Employment Enforcement Fund.
- Approximately 519 inspections have been performed, $37,000 in penalties have been assessed, and approximately 110 warnings have been issued. To date, no penalties have been collected and licenses have not been suspended because employers have achieved compliance within the statutorily authorized timeframe.
- According to the Department of Labor and Workforce Development, only one position has been filled (Administrative Services Assistant).
- One-time expenditures were as follows: phone $324.00, computer $588.37, monitor $126.07, Microsoft Office 2010 standard license $232.94. A total increase in one-time expenditures of $1,271.38.
- Recurring personnel expenditures for one Administrative Services Assistant of $44,527.82 ($33,120 salary + $11,407.82 benefits).
- Recurring operational office expenditures of $791 for OIR node fee and IP phone charges.
- The Labor Standards Inspector position is budgeted but remains vacant. Recurring expenditures budgeted for currently vacant Labor Standards Inspector position are $36,083.58 ($27,468 salary + $8,615.58 benefits). These funds revert to the General Fund after each fiscal year.
- Total recurring expenditures of $45,318.82 ($791 + $44,527.82).

** This information has been updated from the 2013 Public Chapter Review at the request of the Fiscal Review Committee members.*

Public Chapter 602 of 2012

Effective March 21, 2012

The legislation authorized the Department of Transportation (DOT) to digitally distribute utility relocation plans to utility owners.

Estimated fiscal impact at time of passage:

Decrease State Expenditures - $505,600/Highway Fund

Assumed:

- DOT is required to provide each utility owner with at least two sets of complete project plans by certified mail or hand delivery. Authorizing DOT to deliver the plans digitally will result in a recurring decrease in state expenditures for printing, shipping, and handling of these plans.
- In 2011, Region II distributed approximately 572 plans. Approximately 2,288 plans were sent statewide (572 plans x 4 regions).
- According to DOT, the average plan contains 100 pages measuring 24 inches x 36 inches, for a total of 228,800 pages (2,288 plans x 100 pages). DOT estimates printing cost to be $2.00 per page. The recurring decrease in state expenditures for printing of the plans is estimated to be $457,600 (228,800 pages x $2.00 per page).
- According to DOT, Region II expenditures in 2011 for certified "other than letter" mail were $12,000. The recurring decrease in statewide certified mail expenditures is estimated to be $48,000 ($12,000 x 4 regions).
- The total recurring decrease in state expenditures from the Highway Fund is estimated to be $505,600 ($457,600 + $48,000). According to the Department of Finance and Administration, these savings will be allocated to other DOT programs.
- The legislation, as drafted, does not impact other stages of the utility relocation process and will not result in cost savings in those areas.

Fiscal impact since enactment:

Not Significant

Fiscal impact is based on the following:

- According to DOT, Regions III and IV distributed a total of 603 plans in FY12-13, and a total of 899 plans in FY13-14, all by certified mail. Twenty-five additional sets of plans were delivered digitally upon request in FY13-14 in Region IV, after paper plans have already been delivered by certified mail.
- Utilities in Regions III and IV have informed the department that they prefer receiving both digital and hard copies of the plans.

- According to DOT, officials in Regions I and II have stated that plans were sent via digital media when the law was changed but that no data could be provided as to the change in expenditures. The department states that it is “safe to assume those regions are saving thousands of dollars per year.”
- Since data is limited and only accounts for 50 percent of the regions, an exact fiscal impact since enactment cannot be determined. It is assumed that the passage of this bill has not yet resulted in a significant decrease in state expenditures, as the number of utility relocation plans that have been delivered digitally rather than by certified mail or hand is not significant in the regions where hard data is available.

Public Chapter 729 of 2012

Effective April 11, 2012

The legislation authorized the Commissioner of the Department of Financial Institutions (DFI) to establish a fee for conducting an off-site investigation or examination of any mortgage lender, mortgage loan broker, mortgage loan service, or mortgage loan originator.

Estimated fiscal impact at time of passage:

Increase State Revenue - $94,900

Assumed:

- There will be 80 off-site examinations conducted annually.
- DFI’s Compliance Division maintains field offices in Knoxville and Murfreesboro, which operate as the Division’s examination staff’s central location for conducting off-site examinations of licensees.
- The annual rent, including utilities, for the Murfreesboro field office is $41,868. Fifty-two percent of the Knoxville office is used by the off-site examination staff. The staff’s recurring share of the total expense is $19,094.40 ($36,720 x 52.0%).
- The annual rent, including utilities, for the Murfreesboro field office is $41,868. Forty-two percent of the Murfreesboro office is used by the off-site examination staff. The staff’s recurring share of the total expense is $17,584.56 ($41,868 x 42.0%).
- The scheduling function for the off-site examination process in the Knoxville office is conducted by a Loan Examiner, with the annual salary and benefits of $50,594.72.
- The scheduling function for the off-site examination process in the Murfreesboro office is conducted by an Administrative Services Assistant, with the annual salary and benefits of $46,430.63.
- According to DFI, 60 percent of the schedulers’ work schedule is spent performing off-site examination related functions. The total recurring share of the schedulers’ salaries and benefits spent on off-site examination related functions is $58,215.21 [($50,594.72 x 60.0%) + ($46,430.63 x 60.0%)].
- The total recurring cost associated with conducting off-site examinations is $94,894.17 ($19,094.40 + $17,584.56 + $58,215.21).
- The off-site examination fee, authorized to be prescribed by the legislation, will be approximately $1,186.18 ($94,894 / 80). This fee will be collected in addition to any reasonable and actual expenses for conducting any investigation or examination under this section.

Fiscal impact since enactment:

Not Significant

Fiscal impact is based on the following:

- According to DFI, the following restructuring of the off-site examination process has occurred since the passage of this legislation:
  - The Murfreesboro field office was closed eliminating costs associated with the office;
  - All examination and scheduling activities were moved to Nashville, eliminating space utilization for the Knoxville field office; and
  - All activities related to the conducting of the off-site examinations have been consolidated with the examiners themselves, eliminating this responsibility entirely from the duties of staff engaged in scheduling activities.
- As a result of improved efficiencies and restructuring of the examination function, the additional costs associated with off-site examinations have been eliminated. Therefore, the Department determined that moving forward with the promulgation of the rule was unnecessary and the off-site examination fee has not been established and imposed.
- Additionally, effective July 1, 2015, Tenn. Code Ann. § 45-13-404(g), which authorizes the off-site examination fee to be established, will be deleted under Public Chapter 736 of the Acts of 2014.

Public Chapter 991 of 2012

Effective October 1, 2012

The legislation changed the date by which a child must be five years of age to enter kindergarten or pre-kindergarten to on or before August 31 for the 2013-2014 school year and on or before August 15 for all subsequent school years.

Estimated fiscal impact at time of passage:

Decrease State Expenditures - $21,226,600/One-Time/FY14-15
$9,272,300/One-Time/FY15-16

Increase Local Expenditures - $5,400/FY12-13 and Subsequent Years with the exception of FY14-15 and FY 15-16

Decrease Local Expenditure – Net Impact - $11,259,100/One-Time/FY14-15
$4,915,200/One-Time/FY15-16

Assumed:

- Statutory class size limits will remain in place.
- There will be a reduction in the number of students enrolling in kindergarten in FY13-14 whose birthdays are in September and again in FY14-15 for students whose birthdays are in the latter half of August.
- The number of students entering kindergarten in the fall of the 2012-2013 school year will be unchanged.
- According to the Department of Education (DOE), there are 77,219 kindergarten students.
- DOE estimates that 6,435 (77,219 / 12) will be impacted in the 2013-2014 school year and an additional 3,218 (6,435 / 2) in the 2014-2015 school year.
- DOE estimates that five and eight tenths (5.8%) percent of the impacted students would have been held back in the absence of this bill.
- In the 2013-2014 school year, 6,062 [6,435 – (6,435 x 5.8%)] students will be impacted.
- In the 2014-2015 school year, 3,031 [3,218 – (3,218 x 5.8%)] students will be impacted.
- Since the BEP generates funding based on prior year enrollment, the fiscal impact from the one-time reduction in enrollment in FY13-14 and FY14-15 will not be realized until the following fiscal year.
- The BEP will generate $6,037 per student with $3,944 in state funding and $2,093 in local BEP match.
- The exact number of students who will be found emotionally and academically mature; and therefore, enter kindergarten early is unknown. This number will depend upon the number of tests and evaluations conducted by the LEA and the test results.
- The Department of Education estimates that each early entry screening will cost $8 per child. If five students per LEA receive early entry into kindergarten beginning in FY13-14 and

continuing in subsequent years, the annual number of students entering early will be 680 (5 x 136 LEAs).The annual increase in local expenditures will be $5,440 ($8 x 680).

- The early entry option will decrease the reduction in the number of students in FY13-14 and FY14-15 by 680. The student reduction in FY13-14 will be 5,382 (6,062 – 680). The student reduction in FY14-15 will be 2,351 (3,031 – 680).
- The one-time decrease in state BEP expenditures in FY14-15 as a result of the reduction in student enrollment in FY13-14 will be $21,226,608 (5,382 x $3,944). The one-time decrease in local BEP expenditures in FY14-15 as a result of the reduction in student enrollment in FY13-14 will be $11,264,526 (5,382 x $2,093).
- The one-time decrease in state BEP expenditures in FY15-16 as a result of the reduction in student enrollment in FY14-15 will be $9,272,344 (2,351 x $3,944). The one-time decrease in local BEP expenditures in FY15-16 as a result of the reduction in student enrollment in FY14-15 will be $4,920,643 (2,351 x $2,093).
- The one-time net decrease in local expenditures in FY14-15 will be $11,259,086 ($11,264,526 - $5,440).
- The one-time net decrease in local expenditures in FY15-16 will be $4,915,203 ($4,920,643 - $5,440).
- After the second year, empty slots created in subsequent years, based on prior year early entries, will be filled by new students entering early; however, there will not be an increase in BEP expenditures for these students since it is assumed here that the ADM slots will be replaced on a one-to-one basis.
- Since the overall number of slots available will not change, there will be no impact on pre-kindergarten funding. Pre-kindergarten is not funded through the BEP.

Fiscal impact since enactment:

Decrease State Expenditures - $10,484,700/FY14-15

Decrease Local Expenditures - $5,559,900FY14-15

Fiscal impact is based on the following:

- According to the Department of Education, the legislation decreased kindergarten enrollment by 2,481 students in FY13-14; therefore, the one-time reduction in FY14-15 state BEP expenditures is $10,484,706 and local BEP state match expenditures by $5,559,921.
- The Department has no knowledge of anyone entering early which would have required students to take a test. Testing is not required to be reported.
- According to the Department there are variations between department estimated attendance figures and those that were actually reported for the FY13-14 fiscal year.
- In FY14-15, the department expects the one-time decrease in state and local expenditures to decrease with the reduction of the date for enrollment from August 31 to August 15.

Public Chapter 1041 of 2012

Effective June 20, 2012

The legislation required a defendant, upon request for a diversion program, to pay a $100 fee to the Tennessee Bureau of Investigation (TBI). The fee paid by a defendant petitioning a court for expunction of records following successful completion of a diversion program was increased from $50 to $350 and specified the purposes for which such revenue may be used by TBI.

Estimated fiscal impact at time of passage:

Increase State Revenue - $4,431,500

Increase State Expenditures - $4,431,500

Assumed:

- Beginning July 1, 2012, all revenue collected from the $100 diversion request fee and the $350 expunction fee for individuals completing a diversion program shall be used by the TBI for the following purposes: to employ personnel; purchase equipment and supplies; fund education, training, and development of Bureau employees; maintain the databases; computer system support; maintenance costs; and any other purpose that allows the Bureau to do its business in a more efficient manner.
- According to TBI, there are 8,105 expungement requests and 20,000 diversion requests each year. There will be a recurring increase in state revenue of $4,431,500 [($300 x 8,105 expungement requests) + ($100 x 20,000 diversion requests)].
- The Bureau will spend the additional revenue for the stipulated purposes resulting in an increase in state expenditures of $4,431,500.

Fiscal impact since enactment:

Increase State Revenue - $1,824,400/FY12-13
$2,024,500/FY13-14

Increase State Expenditures - $1,321,800/Recurring

Fiscal impact is based on the following:

- Over the past two fiscal years, there have been a total of 18,236 diversion requests resulting in an increase in revenue of $1,823,600. The breakdown by fiscal year follows:
  - 8,470 requests x $100 = $847,000 in FY12-13; and
  - 9,766 requests x $100 = $976,600 in FY13-14.

- Over the past two fiscal years, there have been a total of 6,751 expungement requests granted for a total increase in revenue of $2,025,300. The breakdown by fiscal year follows:
  - 3,258 x $300 = $977,400 in FY12-13; and
  - 3,493 x $300 = $1,047,900 in FY13-14.
- According to TBI, the expungement unit has incurred expenditures totaling $1,321,779 which include:
  - $289,836 in personnel costs for 11 positions;
  - $350,000 in OIR and computer related costs; and
  - $681,943 in equipment.

Public Chapter 450 of 2013

Effective May 16, 2013

The legislation authorized Cocke County to levy a privilege tax on litigation filed for all civil and criminal cases held in general sessions court upon passage of a resolution, which sets the tax, with two-thirds majority by the county commission. Any revenue collected is to be deposited into the county general fund and used for funding the general sessions court and ensuring the existing courthouse justice center facilities are in compliance with fire codes.

Estimated fiscal impact at time of passage:

Increase Local Revenue – $22,800/Cocke County/Permissive

Assumed:

- Based on information provided by Cocke County, the legislative body intends to set the privilege tax rate at $4.75.
- Cocke County estimates the tax will be collected on 4,800 cases per year.
- The recurring increase in local revenue for Cocke County is estimated to be $22,800 (4,800 cases x $4.75 privilege tax assessed per case.

Fiscal impact since enactment:

Increase Local Revenue - $10,840/Cocke County

Fiscal impact is based on the following:

- The Cocke County commission passed a resolution to levy a privilege tax of $4.75 on July 15, 2013.
- According to information provided by Cocke County, collections through May of 2014 totaled $10,841.

Public Chapter 443 of 2013

Effective July 1, 2013

The legislation authorized eligible petitioners to pay the $350 expunction fee via payment plan, but a court cannot issue an order of expunction until the $350 fee is paid in full. The legislation also required the Department of Finance and Administration to review the number of expunction petitions pursuant to Tenn. Code Ann. § 40-32-101(g), the cost of processing each petition and the amount of money paid in expunction fees to determine if the amount allotted to the state under subdivision (g)(10)(C) to implement this subsection is adequate, and if some portion of such funds could be used for other criminal justice purposes such as the criminal injuries compensation fund or drug court funding.

Estimated fiscal impact at time of passage:

Increase State Revenue - $1,000/TBI
$2,600/District Attorneys Expunction Fund
$300/Public Defenders Expunction Fund
$2,900/General Fund

Increase Local Revenue - $200/Court Clerks

Assumed:

- The bill would result in individuals who are "eligible petitioners" to have the records expunge that could not do so previously because they could not afford the $350 fee.
- Under Tenn. Code Ann. § 40-32-101(g)(10), the $350.00 fee one pays for having records expunged is distributed as follows:
  - $10.00 to the court clerk collecting the fee;
  - $50.00 to the TBI;
  - The remainder ($290.00) is distributed:
    - 5% ($14.50) to the PDs expunction fund;
    - 40% ($116.00) to the DAs expunction fund for fiscal year 2012-2013 and 45% ($130.50) beginning fiscal year 2013-2014;
    - 55% ($159.50) to the state general fund for fiscal year 2012-2013 and 50% ($145.00) beginning fiscal year 2013-2014.
- The bill, if enacted, will be effective July 1, 2013, the beginning of fiscal year 2013-2014. Thus, the percentages that will be effective in fiscal year 2013-2014 and subsequent fiscal years will be used to estimate the impact of the bill.
- It is assumed that the bill would result in 20 additional petitioners each year having their records expunged.
- The bill would result in increased state revenue of $6,800 ($340 x 20) and increased local revenue of $200 ($10 x 20).
- The TBI would receive $1,000 ($50 x 20); the DAs would receive $2,610 ($130.50 x 20); the PDs would receive $290 ($14.50 x 20); and the General Fund would receive $2,900 ($145 x 20).

- It is assumed that the Department of Finance and Administration can perform the review of expunction fees within existing resources.

Fiscal impact since enactment:

Increase State Revenue - $3,100/TBI
$8,100/District Attorneys Expunction Fund
$900/Public Defenders Expunction Fund
$9,000/General Fund

Increase Local Revenue - $600/Court Clerks

Fiscal impact is based on the following:

- Data from the Department of Revenue shows that there were 910 expunctions in FY12-13 and 810 expunctions from July 1, 2013 through April 30, 2014. If expunctions continued for the final two months of FY13-14 at an average rate, the total for FY13-14 would be approximately 972 [(810 expunctions / 10 months) x 2 months + 810 expunctions] which is an increase of approximately 62 expunctions since enactment.
- The 910 expunctions in FY12-13 are significantly lower than the 47,928 expunctions estimated in the fiscal note for Public Chapter 1103 of the Public Acts of 2012.
- Since the 910 expunctions were significantly lower than expected, it is difficult to determine how much of the increase in FY13-14 is directly related to the passage of Public Chapter 443.
- Expunction revenue in FY13-14 is estimated to have increased by $21,700 (62 x $350) which would be distributed as follows:
  - $620 (62 x $10.00) to the court clerk;
  - $3,100 (62 x $50.00) to the TBI;
  - The remainder ($17,980) is distributed:
    - $899 (5%) to the PDs expunction fund;
    - $8,091 (45%) to the DAs expunction fund; and
    - $8,990 (50%) to the state general fund.
- According to the Department of Finance and Administration, it took approximately 15 employee hours from 10 employees to complete the study. No additional funds were expended.