

# COMPARISON OF ACTUAL AND ESTIMATED FISCAL NOTE IMPACTS



PRESENTATION TO THE FISCAL REVIEW COMMITTEE

Fiscal Review Committee Staff

August 26, 2014

# Tenn. Code Ann. § 3-2-107(c)

## **3-2-107. Fiscal notes for revenue bills — Cumulative fiscal notes during session — Comparison of actual fiscal impact — Written summary.**

- (c) (1) Within sixty (60) days after the conclusion of each annual regular legislative session, the fiscal review committee staff shall select a fair and representative sample of at least five (5) public chapters enacted within the preceding five (5) years and compare the actual fiscal impact of each public chapter to the fiscal impact as stated in the cumulative fiscal note.
- (2) Upon completing the review, the fiscal review committee staff shall present the results of this review to the fiscal review committee at a meeting of the committee. The committee may also invite testimony from other witnesses, including representatives of executive departments and agencies affected by the bill. A written summary of the results of such review shall be provided to each member of the general assembly each year.

# Public Chapter 3 of 2010

## First Extraordinary Session

Effective January, 26 2010. The Complete College Act

### **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.**

# Public Chapter 3 (continued)

## **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**

# Public Chapter 3 (continued)

- According to TBR, FY13-14 was the first full year in which expenses were incurred for the Community College Office:
  - \$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 have been expended on the Tennessee Transfer Pathways (TTPs) articulation agreement meetings.
  - 40 TTPs have been developed
  - \$5,774 per development meeting for lodging, per diems, and mileage.
- According to UT, expenses for the Bredesen Center (UT-ORNL partnership) have totaled \$4,619,808 over the past four years (FY10-11 thru FY13-14) for operating expenses, technical/clerical support, recruiting students, graduate stipends, tuition/fee waivers, center director, and facilities.
  - UT estimates total expenditures in FY14-15 (including cost sharing for facilities and administrative costs recovery and ORNL contracts) to be \$1,791,901.
  - Total five year costs are projected to be \$6,411,709.

# Public Chapter 398 of 2011

Effective June 6, 2011. Created sales and use tax exemptions for the purchase of storm and tornado construction building supplies purchased between July 1, 2011, and December 31, 2011.

## **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**

# Public Chapter 398 (continued)

## **Fiscal impact since enactment:**

**Decrease State Revenue - \$12,600**

**Forgone State Revenue – Undeterminable**

**Decrease Local Revenue - \$4,500**

**Forgone Local Revenue - Undeterminable**

- 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  $[(7.0/9.5) \times \$17,165.55]$  and the local portion is \$4,517.25  $[(2.5/9.5) \times \$17,165.55]$ .
- 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. Required the Department of Safety (DOS) to issue a photo identification license free of charge to any person that has signed an affidavit.

## **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**

# Public Chapter 423 (continued)

## 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**

# Public Chapter 423 (continued)

- The total fee for a photo identification license is \$9.50 (\$7.50 license fee + \$2.00 application fee).
- 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.
  - 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.
- 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.
  - 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 to produce photo identification licenses for the 15,785 individuals who previously did not have an identification license.
  - 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.

# Public Chapter 436 of 2011

Effective January 1, 2012. Enacted the *Tennessee Lawful Employment Act* and revised other provisions of law regarding employment of persons unlawfully present in the country. Established an Office of Employment Verification within the Department of Labor and Workforce Development (DLWD).

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

**Increase State Revenue – Exceeds \$10,000/Lawful Employment  
Enforcement Fund**

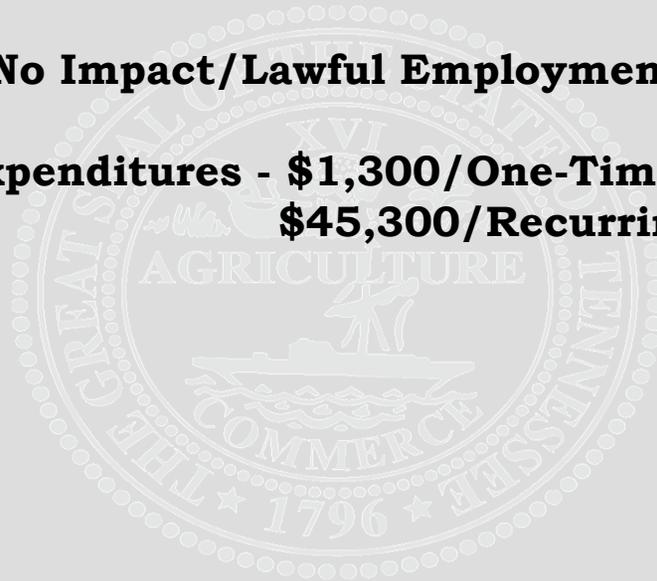
**Increase State Expenditures - \$6,000/One-Time/General Fund  
\$91,100/Recurring/General Fund  
\$10,000/Lawful Employment  
Enforcement Fund**

# Public Chapter 436 (continued)

## **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**



# Public Chapter 436 (continued)

- No revenue has been 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 DLWD, only one position has been filled (Administrative Services Assistant).
  - One-time expenditures of \$1,271.38:
    - phone \$324.00, computer \$588.37, monitor \$126.07, Microsoft Office 2010 standard license \$232.94.
  - Recurring personnel expenditures of \$44,527.82
  - \$33,120 salary and \$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 and are not included in total expenditures in previous slide.

# Public Chapter 602 of 2012

Effective March 21, 2012. 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**

# Public Chapter 602 (continued)

## **Fiscal impact since enactment:**

### **Not Significant**

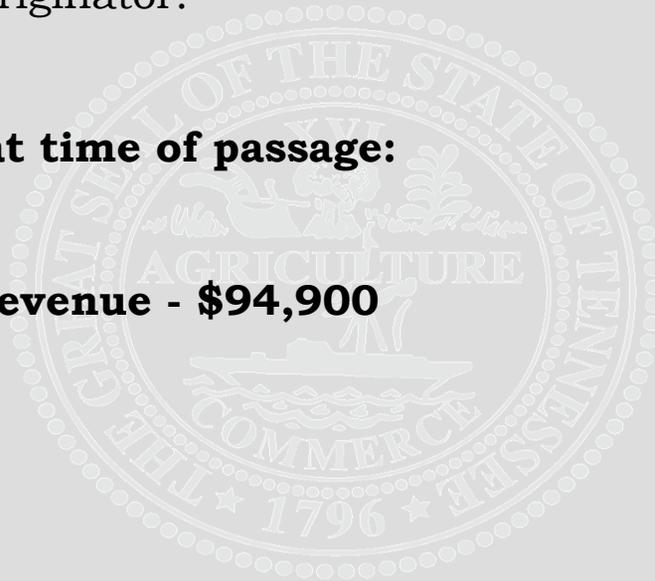
- According to DOT, Regions III and IV distributed a total of 603 plans in FY12-13, and a total of 899 plans in FY13-14, all by certified mail. Twenty-five additional sets of plans were delivered digitally upon request in FY13-14 in Region IV, after paper plans have already been delivered by certified 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. 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**



# Public Chapter 729 (continued)

## **Fiscal impact since enactment:**

### **Not Significant**

- 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;
  - 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, the additional costs associated with off-site examinations have been eliminated.
- DFI determined that moving forward with the promulgation of the rule was unnecessary and the off-site examination fee has not been established and imposed.
- 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. 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**

# Public Chapter 991 (continued)

## **Fiscal impact since enactment:**

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

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

- 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. 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**

# Public Chapter 1041 (continued)

## **Fiscal impact since enactment:**

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

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

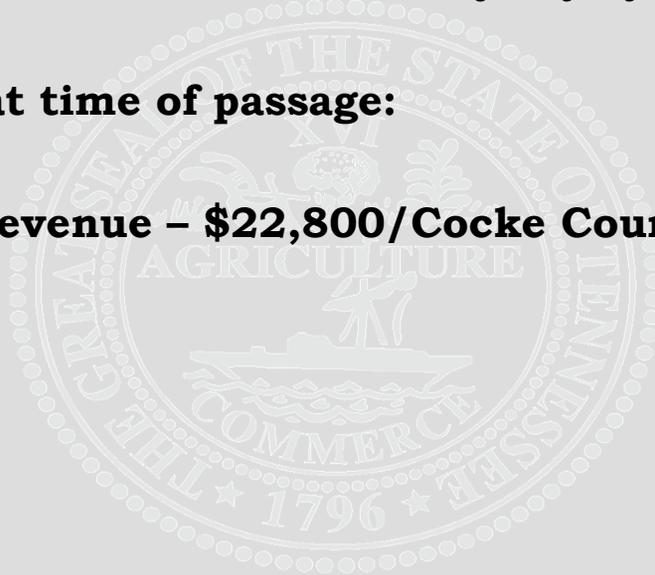
- A total of 18,236 diversion requests resulting in an increase in revenue of \$1,823,600:
  - 8,470 requests x \$100 = \$847,000 in FY12-13; and
  - 9,766 requests x \$100 = \$976,600 in FY13-14.
- A total of 6,751 expungement requests granted for a total increase in revenue of \$2,025,300:
  - 3,258 x \$300 = \$977,400 in FY12-13; and
  - 3,493 x \$300 = \$1,047,900 in FY13-14.
- The expungement unit has incurred expenditures totaling \$1,321,779:
  - \$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. 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.

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

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

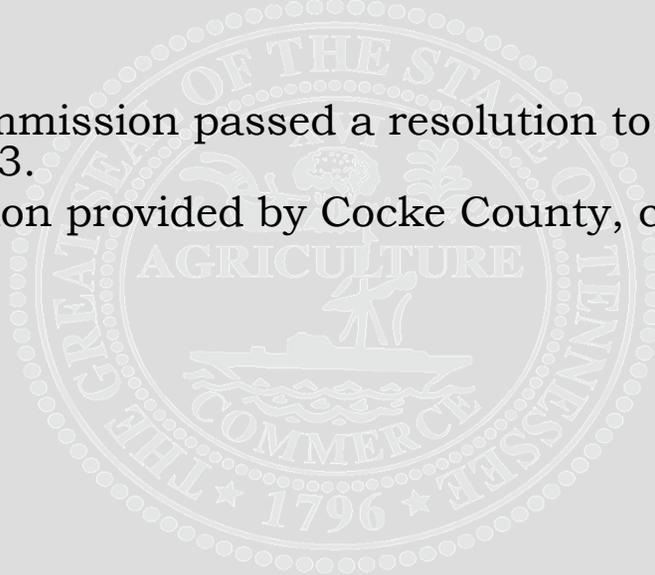


# Public Chapter 450 (continued)

## **Fiscal impact since enactment:**

### **Increase Local Revenue - \$10,840/Cocke County**

- 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. 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. Required the Department of Finance and Administration to review expunction petitions and the cost of processing each petition to determine if the amount allotted to the state is adequate.

## **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**

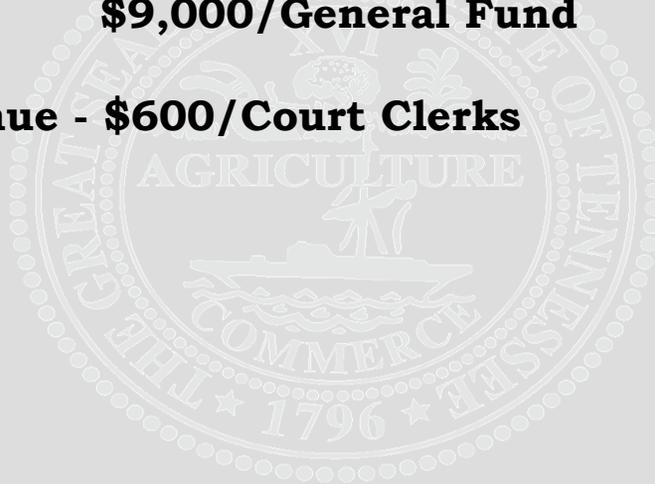
**Increase Local Revenue - \$200/Court Clerks**

# Public Chapter 443 (continued)

## **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**



# Public Chapter 443 (continued)

- 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. Assumes total expunctions for FY13-14 would be approximately 972 resulting in an increase of 62 expunctions since enactment.
- 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.