

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 780 - HB 1380**

March 14, 2011

**SUMMARY OF BILL:** Prohibits state or local government entities from limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law. Creates the Lawful Immigration Enforcement Fund. Authorizes the assessment of a civil penalty between \$500 and \$5,000 against state or local governments for noncompliance with enforcement requirements. Requires any law enforcement officer acting in the enforcement of any state law or local ordinance that makes a lawful stop or detention of a person for violation of the law or ordinance, and the officer has reasonable suspicion to believe the person is unlawfully present in the United States, the officer shall request verification of the immigration status of such person from federal immigration authorities if the verification would not hinder or obstruct an investigation or treatment of a medical emergency. Creates a presumption of lawful presence with the provision of certain forms of identification. Authorizes the transfer of unauthorized aliens to federal facilities in or outside the state. Requires the Peace Officer Standards and Training (POST) Commission to establish a curriculum for law enforcement regarding best practices for determination of immigration status of a person lawfully stopped, arrested, or detained. Requires the POST Commission to implement the bill without additional resources. Creates a presumption of flight risk for persons determined to be in the United States illegally.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$2,965,800/FY11-12  
\$1,828,200/FY12-13 and Subsequent Years**

**Increase Local Revenue – \$100,000/Recurring  
Increase Local Expenditures – Exceeds \$1,961,600/FY11-12\*  
\$961,600/FY12-13 and Subsequent Years\***

Assumptions:

- Local governments may be assessed a civil penalty between \$500 and \$5,000 per day for noncompliance with the provisions of this bill. Due to the severity of the penalty for noncompliance, all local governments are expected to comply with the provisions of this bill. As a result, any increase in state revenue from civil penalties will be not significant.
- According to the Administrative Office of the Courts, any increase in caseloads can be handled within existing resources without an increased appropriation or reduced reversion.

- According to the Tennessee Wildlife Resources Agency (TWRA), in 2010, 26 persons were transported in Davidson County for lack of documentation of status. TWRA estimates that number to be 286 statewide. According to TWRA, the Agency only transports individuals to a booking facility if they cannot produce any form of identification including pay stubs, rent receipts, or other documents. The requirement to produce certain forms of identification will more than double the number of transports. TWRA vehicles are not equipped for transport and therefore require two officers per transport. On average, each arrest and transport takes two officers approximately three hours. A minimum additional 286 transports will result in an additional 1,716 officer hours (2 officers x 3 hours x 286 transports). TWRA will require one additional officer at a recurring cost of \$65,929 (\$39,230 salary + \$16,699 benefits + \$10,000 operational).
- According to the Department of Safety (DOS), there are currently 12 positions within the Criminal Investigations Division (CID) that assist with the enforcement of Immigration and Customs Enforcement (ICE) laws.
- DOS assists county and municipal agencies and also assists in the transportation of undocumented aliens to federally approved detention facilities. Citizens of Tennessee are also able to alert DOS of undocumented aliens living and working in Tennessee.
- According to DOS, the minimum processing time for an undocumented alien is four hours. Children of undocumented aliens must be taken to separate facilities for processing. According to DOS, the closest authorized facility for processing children of undocumented aliens is located in Atlanta, Georgia. A minimum additional 24 CID agents will be required to carry out the provisions of this bill.
- One-time state expenditures for new CID agents will be \$1,118,400 (24 agents x \$46,600 patrol car, computer, radios, cameras, and other supplies).
- Recurring expenditures for 24 new CID agents will be \$1,762,296 [(\$38,100 salary + \$15,529 benefits + \$19,800 vehicle maintenance, travel, equipment) x 24].
- The POST Commission will require at least one additional meeting and one rulemaking hearing. The bill directs the Commission to implement the requirements within existing resources. 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.
- The Commission indicates this would impact the ability to conduct regular business and would require a one-time increase in state expenditures of \$19,200 to reimburse members for travel expenses for additional meetings.
- Based on information from the Davidson County Sheriff's Office regarding the current 287(g) program currently in place, 2,681 persons were issued citations each year and found to be unauthorized aliens. Based on U.S. Census information, approximately 36 percent of foreign-born people in Tennessee live in Davidson County. Approximately 7,447 individuals will be issued citations and found to be unauthorized aliens (2,681 / 36%); an additional 4,766 (7,447 – 2,681) unauthorized aliens.
- Based on information provided by the Comptroller of the Treasury, an additional 7,447 unauthorized aliens who are issued citations statewide each year will be detained. The average time for local police to process an undocumented alien is three hours. It will take 14,298 (4,766 x 3) additional hours to process 7,447 undocumented aliens each year. The average officer salary is \$32.50 per hour. An increase in recurring local

government expenditures of \$464,685 (14,298 hours x \$32.50) to handle the increased workload.

- According to the Department of Corrections, there will be no significant fiscal impact on the Department. The number of unauthorized aliens convicted of a felony will not change.
- Local governments are not authorized to transport offenders to federal facilities. Offenders will be detained until ICE agents can pick up and transport individuals.
- ICE has 48 hours to transport an unauthorized alien to a federal facility after placing a detainer on that person. Local governments will pay incarceration costs of \$417,978 per year (4,766 x 2 days x \$43.85 per day) for the time it takes federal authorities to pick up detainees.
- The presumption of flight risk will increase the amount bail required for an unauthorized alien to be released when charged with criminal offenses and awaiting trial. At least ten additional defendants will be held in local jails for failure to make bail for 180 days while awaiting trial. The recurring increase in local government expenditures will be \$78,930 (180 days x 10 x \$43.85 per day).
- For persons convicted of a felony or second misdemeanor, local governments are authorized file for reimbursement from the U.S. Department of Justice for a share of correctional officer costs. Total appropriations are prorated among all eligible claims. The precise amount reimbursed to local governments cannot be reasonably determined due to multiple unknown factors. It is estimated that local governments will be reimbursed for up to \$100,000 of correctional officer costs.
- The total impact for local governments to process and detain unauthorized aliens will be a recurring increase in local government expenditures of \$961,593 (\$417,978 + \$464,685 + \$78,930). Local government revenue from the U.S. Department of Justice will increase \$100,000.
- According to the Comptroller, based on information from the Tennessee Association of Law Enforcement Officers, the first-year training cost for local law enforcement will exceed \$1,000,000.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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