TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 501 – HB 506

April 8, 2013

SUMMARY OF ORIGINAL BILL: Removes current requirement in Tenn. Code Ann. § 49-3-351 stating that the cost per square foot calculation in the Basic Education Program (BEP) funding formula be reduced by $14.00 per square foot for kindergarten through fourth grade classrooms, and by $12.00 per square foot for other classrooms, beginning in FY2010-2011 and subsequent fiscal years.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures –
$33,700,000/BEP/FY13-14
Exceeds $33,700,000/BEP/FY14-15 and Subsequent Years

Increase Local Expenditures –
Exceeds $1,000,000/Permissive

SUMMARY OF AMENDMENT (006254): Amendment 006254 deletes all language after the enacting clause. **Section 1** removes the current requirement in Tenn. Code Ann. § 49-3-351 stating that the cost per square foot calculation in the Basic Education Program (BEP) funding formula be reduced by $14.00 per square foot for kindergarten through fourth grade classrooms, and by $12.00 per square foot for other classrooms, beginning in FY2010-2011 and subsequent fiscal years. **Section 2** deletes the pilot program to reimburse licensed residential homes for aged, in which the state subsidizes the homes. **Section 3** abolishes the Institute for Labor-Management Studies within the Department of Labor and Workforce Development. **Section 4** transfers the Criminal Justice Coordinating Council from administrative attachment to the Department of Finance and Administration (F&A) to the Department of Correction. **Section 5** requires the Commissioner of F&A, on June 30, 2013, to transfer from the Mental Health Trust Fund to the General Fund $1,923,100 in order to recognize FY11-12 transition costs related to the closure of Lakeshore Mental Health Institute, and, if the 2013 general appropriations bill provides for such additional transfer, an amount not to exceed $2,700,000 for additional transition costs which may be incurred in FY12-13 and FY13-14. **Section 6** abolishes the reserve for temporary assistance to needy families. **Section 7** abolishes the tobacco master settlement agreement reserve funds. **Section 8** abolishes the Access Improvement Fund Act of 1971 which required that proceeds of state surplus land sales be set aside to assist in financing of local government road access improvement projects. **Section 9** adds four exceptions to the general law that proceeds of state real property sales are deposited to the natural resources trust fund or the general fund.

Sections 10 through 13 reverse the annual health related and regulatory board fee certification process, so that the Commissioners of the Department of Health and Commerce and Insurance will certify to the Commissioner of F&A and to each health related and regulatory board the amount of board fee revenue required to support each board, based upon the F&A approved work program for the current fiscal year. **Sections 14 and 15** reverse the annual environmental regulatory program fee certification process, so that the Commissioner of the Department of Environment and Conservation will certify to the Commissioner of F&A and to each regulatory program the amount of regulatory fee revenue required to support each regulatory program, based upon the F&A approved work program for the current fiscal year.

Section 16 requires the appropriation bill and other bills as may be required to provide the revenues necessary to finance the budget to be submitted by the Governor no later than 14 days after the budget document is transmitted or by the general bill cut-off date, whichever is later, instead of at the time the budget is submitted to the General Assembly.

Sections 17 through 34 codify certain provisions that have been in the annual appropriations act for many years, relative to administration and implementation of the appropriations. Such provisions include, but are not limited to: provisions authorizing state agencies to pay the professional privilege tax on behalf of full-time state employees; travel expense reimbursement; Department of General Services' authority to impose a real estate transaction fee on real estate transactions processed by the Department; authority of the Commissioner of Human Resources to designate a position or positions within each executive branch agency as chief fiscal officer; and authority of the Commissioner of F&A to require that salaries of state employees be paid through direct-deposit procedures.

Sections 35 through 39 delete references to the Commissioner of F&A and replace them with references to the Commissioner of the Department of General Services, reflecting the 2011 Executive Order No.7 which transferred the Real Property Management Division functions from F&A to the Department of General Services, and delete reference to payment of expenses of real property sales from an F&A departmental account and provides that such expenses be paid from the proceeds of sales.

Section 40 requires that the annual report on exemptions from state taxes be included in the budget document, rather than in a separate report that is required to be submitted by February 1 of each year to the Finance, Ways and Means committees of the Senate and House of Representatives. **Section 41** deletes an archaic reference to the transfer of F&A's State Planning Office, which was transferred to the Governor's Office by a 1972 public act and abolished by a 1995 public act. **Section 42** abolishes the State Government Quality Improvement Act of 1992, which created a task force to prepare a January 1, 1993 report on establishing a total quality management process for state government. **Section 43** establishes a severability clause. **Section 44** establishes that Sections 1 through 4 will take effect on July 1, 2013, and all other sections will take effect upon becoming a law.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue - $4,623,100/FY13-14/Mental Health Trust Fund
Increase State Revenue - $4,623,100/FY13-14/General Fund

Increase State Expenditures – Net Impact –
$31,599,700/FY13-14/General Fund
Exceeds $31,599,700/FY14-15 and Subsequent Years/General Fund

Increase Local Expenditures – Exceeds $1,000,000/Permissive

The Governor's proposed FY13-14 budget, as amended by the Administration Amendment, reflects funding in the amount of $31,599,700 from the General Fund, including the shift from the Mental Health Trust Fund in the amount of $4,623,100 and an additional amount of $26,976,600.

Assumptions for the bill as amended:

- Section 1: According to the Comptroller of the Treasury and the Department of Education (DOE), funding in the amount of $33,700,000 will be added to the capital outlay component of the BEP funding formula in FY13-14. It is estimated that capital outlay component funding in FY14-15 and subsequent fiscal years will exceed $33,700,000.
- This bill as amended requires the BEP funding formula to provide additional funding for additional capital outlay; however, it does not explicitly require local education agencies to use this funding for capital outlay expenses.
- Based on the BEP funding formula exclusively, and relative to the increased state portion of $33,700,000, the required local BEP match would be approximately $32,524,000. However, local education agencies (LEAs) are currently funding above and beyond their local match requirements; therefore, the DOE estimates that no actual increase in local BEP match funding will be required.
- LEAs will not be required to fund additional capital outlay expenditures; therefore, some LEAs may elect not to increase local funding; while other LEAs may choose to do so. For those LEAs electing to increase their capital outlay expenditures, some may be able to do so without any additional local funding while others may elect to match the state portion on some level.
- For any LEAs electing to match the state portion, any such additional local expenditures would be considered permissive. The extent of any such additional local expenditures is dependent upon several unknown factors, thus making a precise estimate difficult. However, the permissive recurring increase in local government expenditures for new capital outlay is reasonably estimated to exceed $1,000,000 statewide.
- Section 2: According to the Department of Health, abolishing the pilot program to reimburse licensed residential homes for aged will result in a recurring decrease in state expenditures of $1,607,800. According to F&A, the Governor's recommended budget reflects a decrease in state expenditures of $1,607,800 to the General Fund.

- Section 3: According to the Department of Labor and Workforce Development, abolishing the Institute for Labor-Management Studies will result in a recurring decrease in state expenditures of $265,000. According to F&A, the Governor's recommended budget reflects a decrease in state expenditures of $265,000 to the General Fund.
- Section 4: According to F&A and the Department of Correction, transferring the Criminal Justice Coordinating Council from administrative attachment to F&A to the Department of Correction will result in a recurring decrease in state expenditures of $227,500 for two full-time positions that will be abolished within F&A.
- The Department of Correction will administer the Council with existing staff and resources, without an increased appropriation or a reduced reversion.
- According to F&A, the Governor's recommended budget reflects a decrease in state expenditures of $227,500 to the General Fund.
- Section 5: According to F&A, the transfer of $1,923,100 from the Mental Health Trust Fund to the General Fund will correct an error in calculation of the Mental Health Trust Fund Balance. The 2012 appropriations act, section 38, paragraph 5, had provided for FY11-12 Lakeshore closure costs to be funded from the Mental Health Trust Fund.
- The transfer of $2,700,000 from the Mental Health Trust Fund to the General Fund for FY12-13 Lakeshore closure costs is also directed in the 2013 appropriations bill as submitted by the Governor.
- The total amount that will be transferred from the Mental Health Trust Fund to the General Fund is equal to $4,623,100 ($1,923,100 + $2,700,000) and is reflected in the 2013 appropriations bill as submitted by the Governor.
- Section 6: According to the Department of Human Services and F&A, the reserve for temporary assistance to needy families has been at zero balance for many years. Abolishing the reserve will not result in a significant state or local fiscal impact.
- Section 7: Abolishing the tobacco master settlement agreement reserve funds will not result in a significant state or local fiscal impact. According to F&A, the funds have been at zero balance since the first year of tobacco master settlement agreement receipts.
- Sections 8 and 9: According to the Department of Treasury, the Military Department, and the Tennessee Wildlife Resources Agency, abolishing the Access Improvement Fund Act of 1971, which required that proceeds of state surplus land sales be set aside to assist in financing of local government road access improvement projects, and adding four exceptions to the general law that proceeds of state real property sales are deposited to the natural resources trust fund or the general fund, will not result in a significant fiscal impact to the state or local government.
- Sections 10 through 13: According to the Department of Health and the Department of Commerce and Insurance, reversing the annual health related and regulatory board fee certification process will not result in a significant fiscal impact to the state.
- Sections 14 and 15: According to the Department of Environment and Conservation, reversing the annual environmental regulatory program fee certification process will not result in a significant fiscal impact to the state.
- Section 16: Requiring the appropriation bill and other bills as may be required to provide the revenues necessary to finance the budget to be submitted by the Governor no later than 14 days after the budget document is transmitted, or by the general bill cut-off date, whichever is later, will not result in a significant fiscal impact to the state.

- Sections 17 through 34: Codifying certain provisions that have been in the annual appropriations act for many years, relative to administration and implementation of the appropriations, will not result in a significant fiscal impact to the state or local government.
- Sections 35 through 39: According to F&A and the Department of General Services, these sections reflect the 2011 Executive Order No.7 which transferred the Real Property Management Division functions from F&A to the Department of General Services, and will not result in a significant fiscal impact to the state or local government.
- Sections 40 through 42: According to F&A, requiring that the annual report on exemptions from state taxes be included in the budget document, rather than in a separate report, deleting an archaic reference to the transfer of F&A's State Planning Office, which was transferred to the Governor's Office by a 1972 public act and abolished by a 1995 public act, and abolishing the State Government Quality Improvement Act of 1992, which created a task force to prepare a January 1, 1993 report on establishing a total quality management process for state government, will not result in a significant fiscal impact to the state or local government.

CERTIFICATION:

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

Lucian D. Geise, Executive Director

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