TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 460 - HB 1022

February 26, 2013

SUMMARY OF BILL: Prohibits laws from being mandatory in their effect on local governments when the fiscal note for the bill that became law estimated a mandatory fiscal impact on local governments exceeding $100,000, or when the fiscal notes for multiple bills that became law estimated a cumulative mandatory fiscal impact on local governments exceeding $1,000,000 unless fully funded. Authorizes local governments to opt out of such laws if the required funding was not provided by the state.

Prohibits any agency, department or other entity of state government from denying funds to, fining, or penalizing a local government solely on the basis that the local government opted not to comply with laws that are not mandatory in effect. Excludes the following categories of laws: those which require compliance with federal law or rules for meeting federal entitlement eligibility standards; those which repeal, revise or lessen an existing requirement or mandate or which reapportion costs of activities between local governments; and those which implement mandatory duties of the Tennessee Constitution.

Prohibits any agency of state government from adopting any rule increasing any fee or creating a new fee in any year where the general state revenues appropriated to the agency have decreased from the previous year.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – Recurring cost avoidances for local governments of unknown amounts. In addition, recurring cost avoidances for state government of unknown amounts under certain circumstances, recurring increases in state expenditures of unknown amounts under other certain circumstances, and forgone state revenue of unknown amounts. The total net fiscal impact to the state cannot be reasonably quantified due to multiple unknown factors.

Assumptions:

- This bill will only apply to laws enacted after the proposed effective date of January 1, 2014.
- The fiscal impact of this bill is dependent upon multiple unknown factors, including but not limited to, the number of bills that will become law after the effective date of this

bill that places unfunded mandates on local governments, the extent of local government impacts estimated on the respective fiscal notes for the enacted laws, the extent to which local governments opt out of the requirements of future enacted laws as a result of this bill, the extent to which funding would have been dedicated for any such enacted laws by both state and local governments, the timing of enactment for such laws in the future, and the timing for when fiscal impacts would have occurred under current law. Given the extent of unknown factors, a precise fiscal estimate for this bill cannot be reasonably quantified.

- It is assumed that mandatory local costs of legislation are included in Section 42 of the Annual Appropriations Act. Pursuant to Section 42, an appropriation is made for state's constitutional share of funding legislation having a mandatory cost on local government from the growth in state-shared taxes to cities and counties and from certain revenue generated from annual legislation. In addition, for any legislation having a mandatory cost on local government in excess of $1,000,0000, an appropriation reflecting the state's share of such costs must be included or the legislation is invalid.
- Because such language does not fully fund legislation having mandatory costs to locals, it is assumed that local governments will be able to opt out of a number of bills each year.
- It is reasonable to assume that if local governments have the ability to opt out of the requirements of future enacted law as a direct result of this bill, there will be recurring cost avoidances for local governments in the future of unknown amounts.
- Further, if local governments opt out of certain enacted laws as a result of this bill, there will be recurring cost avoidances for the state because the state would no longer be required to share in costs of implementation for future enacted laws as currently required by Article II, Section 24 of the Tennessee Constitution.
- Alternatively, if the state is required to provide cost sharing to local governments, and some local governments chose to opt out of certain enacted laws as a result of this bill, then a recurring increase in state expenditures may occur because all implementation costs would then reside with the state; provided the state elected to fund the enacted law.
- Prohibiting state agencies from increasing fees, or implementing new fees, when general state dollars appropriated to the applicable agency decreased from the previous year, will result in forgone state revenue of unknown amounts. Such forgone amounts of state fee revenue will be dependent upon the extent of increases, or new fees that would have been implemented in the future under current law.

CERTIFICATION:

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

Lucian D. Geise, Executive Director

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