

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 2255 - HB 2352**

February 18, 2014

**SUMMARY OF BILL:** Codifies new policy that the official seal of the State, its departments and agencies, as well as the seals for political subdivisions of the State and their departments and agencies are valuable assets. Accordingly, they may only be used for appropriate, official purposes.

Creates a Class A misdemeanor for knowingly using an official seal improperly.

Creates a Class E felony for knowingly using an official seal improperly if the seal is that of a volunteer or paid firefighter, emergency medical technician, rescue service member, emergency management service member, law enforcement officer, or other public safety official.

Replaces the Class A misdemeanor for criminal impersonation of a law enforcement officer with a Class A misdemeanor for impersonating a peace officer.

Defines "federal law enforcement officer," "impersonate," and "peace officer."

Authorizes the head of an agency employing peace officers to issue identification, such as a badge, insignia, or card that clearly states the status of the person to whom it is issued. Authorizes the head of an agency to issue a badge to a retired peace officer if the badge clearly states "Retired" somewhere on the identification. Authorizes the head of an agency that employs peace officers to revoke any identification granted under the subsection if there is misuse or abuse of the identification. Creates a Class C misdemeanor for a person to possess, use, or display any badge or identification after notice of such revocation.

Creates a Class A misdemeanor punishable by a fine not to exceed \$1,000 for a vendor selling a uniform identifying a law enforcement agency without verifying that the purchaser is an employee of the agency.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$1,903,100/Incarceration\***

**Increase Local Expenditures – Net Impact – Exceeds \$33,800/Incarceration\*\***

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Assumptions:

- The proposed legislation would criminalize the use of the seal of the State or its political subdivisions for any purpose not authorized by the State or its political subdivisions. Any authorization for non-governmental use must be in writing.
- Tourism constitutes a large portion of the State's economy. Vendors sell thousands of souvenirs, trinkets, t-shirts, and other similar items containing the seal of the State, the seal of the city of Nashville, the seal of the city of Memphis, state parks, and other similar seals. It is assumed that several vendors will sell these items without written authorization to use the seal.
- It is assumed that most vendors will obtain the necessary approval from the Secretary of State. It is assumed that the increase in misdemeanor convictions will not affect the State's economy.
- According to the County Technical Assistance Service, the proposed legislation will impact local governments because of an increase in arrests and convictions. Improper use of an official seal is a Class A misdemeanor.
- Fiscal Review does not have the necessary information to estimate the exact fiscal impact to local governments, but it is reasonable to assume that any increase in local expenditures will exceed \$25,000.
- According to statistics from the Administrative Office of the Courts (AOC), there has been an average of 9.4 convictions each year for criminal impersonation of a law enforcement officer. The AOC's statistics reflect convictions at the state court level. It is assumed that convictions at the state court level represent 10 percent of the misdemeanor convictions at the local court level. It is assumed that there are 94 convictions ( $9.4 \times 10$ ) per year for impersonating a law enforcement officer.
- It is assumed that the bill would result in a similar number of convictions for impersonating a peace officer.
- Impersonating a law enforcement officer is a Class A misdemeanor. The proposed legislation would enhance the offense to a Class E felony.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for 11 ( $94 \times .1178$ ) additional admissions for a total of 105 ( $94 + 11$ ).
- According to the DOC, 42.52 percent of offenders will re-offend within two years of their release. A recidivism discount of 42.52 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $105 \text{ offenders} \times .4252 = 45 \text{ offenders}$ ).
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The average time served for a Class E felony is 1.31 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 60 offenders [ $105 \text{ offenders} - 45 \text{ (recidivism discount)}$ ] serving 1.31 years (478.48 days) for a total of \$31,718.44 ( $\$66.29 \times 478.48 \text{ days}$ ). The cost for 60 offenders is \$1,903,106.40 ( $\$31,718.44 \times 60$ ).

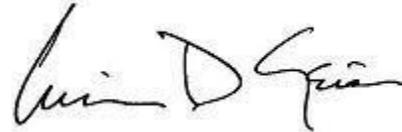
- There will be a corresponding decrease in local expenditures because current Class A misdemeanor convictions for impersonating a police officer will become Class E felonies. It is assumed that each offender for impersonating a police officer is serving an average of 10 days in local jail.
- The estimated 2014 cost per inmate per day for local jails is \$62.52.
- The proposed legislation will result in a decrease in local expenditures of \$58,768.80 (94 convictions x 10 days x \$62.52).
- The proposed legislation will result in a net decrease in local expenditures that will exceed \$33,768.80 (\$58,768.80 – \$25,000).
- The proposed legislation will increase the courts', district attorneys', and public defenders' felony caseloads by approximately 60 cases per year, but it will also reduce their misdemeanor caseloads by 94. It is assumed that the courts, district attorneys, and public defenders can accommodate the impact to their caseloads within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

*\*\*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.



Lucian D. Geise, Executive Director

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