

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 914 – SB 987

March 24, 2015

SUMMARY OF ORIGINAL BILL: Authorizes a health, educational, and housing facility corporation of a municipality and an industrial development corporation of a municipality to negotiate and receive payments in lieu of taxes (PILOTs) with respect to a tax-credit housing project from any lessee of the corporation, without any delegation from the municipality, if: such payments are payable to all applicable taxing jurisdictions in which the project is located and are not less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and the chief executive officer of the municipality has executed a letter supporting the project that is filed with the corporation. Authorizes a municipality to adopt an ordinance or resolution requiring that any agreement with respect to PILOTs entered into pursuant to this act must be approved by the municipality.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Revenue – Exceeds \$1,000,000

IMPACT TO COMMERCE OF ORIGINAL BILL:

Decrease Business Expenditures – Exceeds \$1,000,000

SUMMARY OF AMENDMENTS (003786, 005079): Amendment 003786 establishes that nothing in this bill shall limit the authority of a health, educational, and housing facility corporation to negotiate and receive from a lessee of the corporation payment in lieu of taxes with respect to a tax-credit housing project, when such authority has been granted to the corporation by a municipality. Amendment 005079 changes the effective date from upon becoming a law to July 1, 2015.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease Local Revenue – Exceeds \$1,000,000/Permissive

Assumptions for the bill as amended:

- Under current law, municipalities are authorized to delegate to a quasi-governmental corporation the authority to negotiate and enter into PILOT agreements with a corporation's lessees, and to require the corporation to submit any such agreement to the legislative body for its approval.

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- Many local governments currently include the value of low income housing tax credits in determining the taxable value of such housing projects. Tennessee courts recognize the credits as a measure of property value that may be considered when assessing low income housing properties for property tax purposes (*Spring Hill, L.P., et al. v. Tennessee State Board of Equalization, et al.* (2003)).
- The proposed legislation, as amended, will authorize quasi-governmental corporations to enter into PILOT agreements, without any active delegation from the municipal legislative body, unless the municipality adopts an ordinance or resolution requiring any such agreement to be approved by the municipal legislative body. Thus, switching the positioning of municipal legislative approval on PILOT agreements from an opt out, to an opt in.
- The bill also sets a floor on any such PILOT payments at not less than the taxes that would have been paid for the tax year prior to the year the project becoming a tax-credit housing project.
- The provisions of this bill, as amended, will not have a significant fiscal impact to the state government. However, it is assumed that one purpose of this bill is to make executing PILOT agreements more likely in some municipalities across the state.
- The Tennessee Advisory Commission on Intergovernmental Relations' 2015 report on *Valuing Low-Income Housing Tax Credit Properties in Tennessee* states that, in Memphis, where PILOTs have been widely used for low income housing projects, they generally result in payments that are considerably less than the property tax liability would otherwise be.
- While it is rationale to assert that such PILOT agreements may be drawing investment that would not otherwise occur in Tennessee, information provided by the Office of the Comptroller shows that the state's allotment of low income housing tax credits is already exhausted annually. So any change in how PILOT agreements for these projects are executed is likely to only impact where the housing project investments are made within the state, not how much is invested overall.
- Due to multiple unknown factors, any change in the number or nature of new PILOT agreements triggered by this bill cannot be precisely quantified with certainty. So, it is estimated that local property taxes and negotiated PILOT payments got low income housing projects, statewide, under this law, could be at least \$1,000,000 less than the total those developments would have paid otherwise.
- There could be secondary economic impacts to local governments should owners of low income tax credit housing projects purchase and develop further projects as a result of the provisions of this bill as amended. However, any such impact cannot be reasonably quantified.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

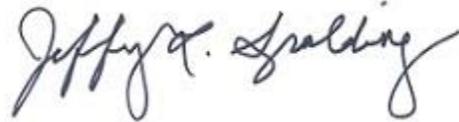
Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed legislation as amended will, to a large extent, remove uncertainty in property tax valuations for some owners of low income tax credit housing projects by allowing them ability to negotiate their tax liability.
- It is estimated that this bill as amended will reduce payments to the local government from such property owners in an amount that exceeds \$1,000,000 annually.
- There could be secondary economic impacts if owners of low income tax credit housing projects purchase and develop further projects as a result of the provisions of this bill as amended. However, any such impact cannot be reasonably quantified.

CERTIFICATION:

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



Jeffrey L. Spalding, Executive Director

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