



April 15, 2015

SUMMARY OF ORIGINAL BILL: Designates the Holy Bible as the official state book.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (006611): Requires the Speaker of the Senate and the Speaker of the House of Representatives, acting jointly, to employ outside legal counsel to defend the constitutionality and validity of this act.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Exceeds \$100,000/General Assembly

Other Fiscal Impact – In the event that a lawsuit is filed challenging the constitutionality of the act, additional costs beyond the trial level could be occurred during an appeal of the outcome of the lawsuit. Any costs incurred at the appellate level will be comparable to the costs incurred at the trial level; therefore, additional expenditures exceeding \$100,000 could reasonably be expected.

Assumptions for the bill as amended:

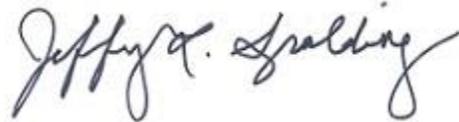
- According to the Attorney General and Reporter Opinion No. 15-34, designating the Holy Bible as the official state book of Tennessee would violate the Establishment Clause of the First Amendment to the United States Constitution and Article I, § 3, of the Tennessee Constitution.
- In the event of a lawsuit challenging the constitutionality of any statute, if the Attorney General and Reporter (AG) determines that office will not defend the statute, a letter certifying such is sent to the Speakers of the Senate and the House of Representatives.
- Pursuant to Tenn. Code Ann. 8-6-109(a)(c), in all cases in which the AG certifies a decision not to defend the a law, the Speakers may jointly employ legal counsel to defend such law.
- Furthermore, when this occurs, state law provides that counsel shall be paid compensation for their services as the Speakers may deem just; the same to be paid out

of any money in the state treasury not otherwise appropriated, upon the certification of the Speakers to the Commissioner of Finance and Administration.

- It is unknown how many parties, if any, would file a lawsuit challenging the constitutionality of this proposal, if enacted. However, in this specific circumstance, it is reasonably certain that at least one party would challenge the constitutionality of the act and that the Attorney General would choose to not participate.
- Recent media reports indicate, the American Civil Liberties Union (ACLU) in Tennessee “stands ready to file a lawsuit if the bill is enacted.” *AG says Holy Bible bill violates federal and state constitutions* (<http://knoxblogs.com/humphreyhill/2015/04/13/ag-says-holy-bible-bill-violates-federal-and-state-constitutions-as-expected/> Web 13 April 2015).
- While the cost of defending any potential litigation is not precisely knowable, due to the multiple variables involved (e.g., appropriate attorney fees, discovery costs, experts fees, complexity of the issues, length of a trial, etc.), it is known that preparing for and litigating such trials can span several months. Therefore, given the amended bills mandate to present a defense in this case, it is reasonable that the State would incur legal costs exceeding \$100,000 per trial for legal fees and other expenses including travel, expert fees, and depositions.

CERTIFICATION:

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



Jeffrey L. Spalding, Executive Director

/lsc