

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2068 – SB 2389

March 12, 2016

SUMMARY OF ORIGINAL BILL: Declares that administrative agencies, as they apply to the Uniform Administrative Procedures Act (UAPA), shall have no inherent, general, or common law powers, and shall only exercise the powers conferred on them by statute or by the federal or state constitutions. Requires the Secretary of State (SOS) to provide 14 days' notice of any upcoming rule hearing on the Tennessee General Assembly's website.

Mandates that as part of the review of agency rules, the agency has the burden of demonstrating, by clear and convincing evidence, that: (1) The agency is acting within its authority to adopt the rule; (2) the rule, considered in its entirety, is clear and will be easily understood by persons directly affected by the rule; (3) the rule is consistent, and not in conflict with or contradictory to existing law; (4) the rule is necessary to secure the health, safety, or welfare of the public, and that the rule is necessary and essential for the agency to serve persons affected by the rule; (5) the rule is not arbitrary or capricious; (6) the rule does not adversely impact a person's constitutional rights; (7) the rule does not adversely impact business; and (8) the rule will result in economic efficiency for persons served by the agency and persons affected by the rule.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (013021): Deletes and rewrites the bill such that the only substantive changes are: (1) to place the burden of persuasion solely within the discretion of the Tennessee General Assembly in conducting a review hearing, (2) to remove the 14-day requirement for notices prior to public hearings, and (3) to add "whether the rule exceeds the mandatory minimum requirements of any relevant federal law or rule" to the list of factors that the agency has the burden of demonstrating as part of the review of agency rules.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

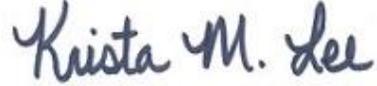
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Assumption for the bill as amended:

- Based on information provided by the Secretary of State, this legislation is codifying current practice. As a result, any fiscal impact is estimated to be not significant.

CERTIFICATION:

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

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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