

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1949 – HB 2343

April 5, 2016

**SUMMARY OF ORIGINAL BILL:** Authorizes county mayors, after no less than 90 and not more than 120 days, and following the county taking charge of all lands bought in by the county pursuant to delinquent tax sales, to evaluate any such property and determine if the potential proceeds from selling the property exceed the financial or environmental risks associated with the property.

If the county mayor determines that the risks associated with the property outweigh the potential proceeds, the county legislative body may adopt a resolution stating that due to financial and environmental risks, it is not in the best interests of the county to acquire the property. If a resolution is adopted by a two-thirds vote of the county legislative body, the county legislative body may file a petition for relief of the property in chancery court. If satisfactory proof of the financial and environmental risks is presented, the chancellor may set aside the county's bid on the property at the delinquent tax sale.

FISCAL IMPACT OF ORIGINAL BILL:

Local Expenditures – Cost Avoidance – Exceeds \$5,000/Per Property/Permissive

**SUMMARY OF AMENDMENT (014845):** Deletes all language after the enacting clause. Requires the chancellor to void the sale of a property that is under contract to be purchased by the county at a delinquent tax sale pursuant to Tenn. Code Ann. § 67-5-2507 and refer the property to a special master for deferred sale upon satisfactory proof of the financial or environmental risk is presented to the chancellor by the county. Requires the special master to file an intent to sell and the terms of the proposed deferred sale, 30 days in advance with the chancellor, county mayor, and assessor of property and to conduct the sale on the proposed terms unless otherwise ordered by the court. Authorizes a purchaser at the deferred sale conducted by the special master to tender an amount equal to the tax due upon the property that was accrued prior to the term of the sale that is based on the alternative value established by the deferred sale. With the approval of the court, such tendered amount with accrued penalty and interest will be accepted in satisfaction of liens securing the tax. Outlines the process if there is no bid at the deferred sale of such properties that are conducted by the special master.

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## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **Local Expenditures – Cost Avoidance – Exceeds \$5,000/Per Property/Permissive**

**Other Fiscal Impact – Dependent upon the actions of the local government and the approval of the court, a county could recognize either a permissive increase in revenue derived from the proceeds of a property sale or could permissively forgo such proceeds if the property was transferred to an eligible party without consideration. The extent and timing of any such impacts cannot be reasonably determined for such impacts are dependent upon unknown future actions.**

Assumptions for the bill as amended:

- The purpose of a delinquent property tax sale is to collect unpaid taxes and convey the tax-defaulted property to a responsible owner.
- Pursuant to Tenn. Code Ann. § 67-5-2506, it is the duty of the county clerk to place a bid on a property that is being auctioned if no other bidder offers a bid for the amount of taxes and other fees that are owed on the property; unless the county legislative body has determined that no bid should be made by the clerk due to a determination that such property poses an environmental risk.
- During the holding period called for in the bill as amended no funds will be exchanged to actually purchase the property.
- Permitting counties to evaluate the financial and environmental risks of a property after a delinquent tax sale may lead to a permissive cost avoidance in counties where mayors determine within the allotted window of time that the property is an environmental or financial risk; the county legislative bodies adopts a resolution; the legislative body files a petition for relief; and the chancellor voids the county's bid on the property.
- This extent of any statewide permissive cost avoidance is based upon multiple unknown factors including: (1) the amount of outstanding taxes, interest, penalties, and costs owed on each impacted property; (2) the number of properties that will be impacted by this legislation; and (3) the value of each affected property for which a bid is reversed by the court. Estimating the precise fiscal impact per property is difficult; however, such permissive cost avoidance is reasonably estimated to exceed \$5,000 per property.
- To the extent the property sale voided by the chancellor and referred to a special master to offer at a deferred property tax sale results in a successful sale, the county will incur an increase in revenue in amount determined by the terms of each sale.
- To the extent there is no bid at the special master's deferred property tax sale, the special master may offer the property for sale again; recommend transfer to a nongovernment entity claiming contractual rights to dues or assessments pursuant to Tenn. Code Ann. § 67-5-2516 if the land is undeveloped or unimproved; or recommend to the court that the property be returned to the owner of record if structures or improvements create environmental or financial liabilities that exceed the estimated value the property is

likely to generate at sale. The action of the special master and outcome of each property is dependent upon the conditions of each parcel.

- According to the Administrative Office of the Courts, any fiscal impact to chancery court as a result of potential petitions will be absorbed within existing judicial resources.
- Rule 53.01 of the Tennessee Rules of Civil Procedure authorizes a court to appoint a special master whose compensation shall be borne by the parties or charged to any fund or subject matter of the action.
- Since special masters can already be appointed for any action pending before a court, it is assumed that the bill as amended will not significantly increase the number of special masters appointed or impact state and local expenditures, even when a governmental entity is a party to the action.

**CERTIFICATION:**

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



Krista M. Lee, Executive Director

/amj