TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1496 - SB 1996

February 1, 2016

SUMMARY OF BILL: Authorizes local government entities to purchase insurance policies to protect against breach of fiduciary duty by public officials and employees and provides that such policies shall satisfy the requirements for filing individual surety bonds. Such policies will be deemed a blanket bond for each official or office identified in the policy. Requires a certificate of insurance evidencing the officials and offices covered, the amount of the coverage maintained, the type of coverage provided to be filed with the County Register. States local government entities electing to purchase insurance policies will not experience an increase in monetary limits pursuant to the Governmental Tort Liability Act.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- According to Tenn. Code Ann. § 4-4-108, no state offices require individual surety bonds; therefore, no fiscal impact to the state government.
- In January 2014, Tennessee Advisory Commission on Intergovernmental Relations (TACIR) released the Insurance as an Alternative to Surety Bonds for Public Officials report.
- According to the report, the price of an individual surety bond depends on the bond amount required, the obligations the bond covers, and the background of the individual being bonded.
- Tennessee statutes requiring individual surety bonds for public officials generally set minimum bond amounts. Bond amounts not set in statute may be determined based on revenue or population or as determined by a court, legislative body, or a judge.
- According to the report, surety bond claims are rare and unexpected because of the screening process required. Conversely, with insurance, losses are expected. Insurance rates are adjusted to cover losses and expenses as the law of averages fluctuates.
- According to the Comptroller of the Treasury, a surety bond holds the individual being bonded liable based on the required terms of a bond codified in Tenn. Code Ann.§8-19-111(b). The risk of loss stays with the official. With insurance, losses are usually not recoverable. When an insurance company pays a claim, the company typically does not expect to be repaid by the insured. The risk of loss is transferred to the insurance company.

- Although the price of insurance policies may be cheaper than surety bonds, insurance comes with coverage limits and deductibles. The net impact to local governments purchasing insurance policies in lieu of surety bonds is considered not significant.

CERTIFICATION:

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

Krista M. Lee

Krista M. Lee, Executive Director

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