

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1650 – SB 1716

January 26, 2016

**SUMMARY OF BILL:** Prohibits gasoline tax revenue distributed to the Highway Fund, counties, and cities from being used for the construction, improvement, or maintenance of a right-of-way or other facility that is open to the use of the public for non-vehicular travel, such as pedestrian and bicycle trails, lanes, and paths, sidewalks, parks, and greenways. Prohibits such revenue from being used to provide the required match for the federal funds or to otherwise ensure the state's use of the federal funds for such purpose. Requires such revenue to be used solely for construction, improvement, and maintenance of highways, bridges, and other transportation infrastructure that is open to the use of the public for vehicular travel.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – According to the Department of Transportation, this bill would result in a violation of the Americans with Disabilities Act and the Rehabilitation Act and would jeopardize federal funding from the Federal Highway Administration. The Department anticipates receiving \$874,863,555 in FY16-17 and \$893,770,525 in FY17-18. Further, the bill could result in a decrease in federal funding available to municipalities. The extent and timing of any such decreases cannot be determined with reasonable certainty.**

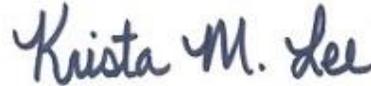
Assumptions:

- Title II of the Americans with Disabilities Act (ADA) requires that state and local governments ensure that persons with disabilities have access to the pedestrian routes in the public right-of-way. Newly constructed or altered streets, roads, highways, and street level pedestrian walkways must contain curb ramps or other sloped areas at intersections.
- Section 504 of the Rehabilitation Act of 1973 prohibits persons with disabilities from being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance.
- The Department of Transportation (TDOT) reports that prohibiting gasoline tax revenue from being used for the construction, improvement, or maintenance of a right-of-way or other facility that is open to the use of the public for non-vehicular travel, such as pedestrian and bicycle trails, lanes, and paths, sidewalks, parks, and greenways would put the Department in violation of the ADA and the Rehabilitation Act, and as a result jeopardize federal funding that the state receives from the Federal Highway Administration (FHA).

- The state would be at risk of losing up to the annual apportionment of federal funds for highway purposes. TDOT anticipates receiving \$874,863,555 in funding from the FHA in FY16-17, and \$893,770,525 in FY17-18.
- It has been reported by county government sources that counties currently do not receive federal funds which would require a state match for the construction, improvement, or maintenance of a right-of-way or other facility that is open to the use of the public for non-vehicular travel.
- Prohibiting counties from using gasoline tax revenue for such purposes would require them to utilize other general fund revenues, if available, for such projects. However, any net fiscal impact on total county funding and expenditures is estimated to be not significant. This assumption also applies to municipalities, which would be prohibited from using State Street Aid funds for such purposes and would be required to utilize other revenue, if available.
- Municipal government sources have noted it is a common practice for municipalities to use gasoline tax revenue distributed to such municipalities as a match to draw down federal funding. Prohibiting such practice could result in a decrease in federal funding available to municipalities. Due to many unknown factors, the extent and timing of any such decrease cannot be determined with reasonable certainty.

**CERTIFICATION:**

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



Krista M. Lee, Executive Director

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