



March 18, 2019

**SUMMARY OF ORIGINAL BILL:** Enacts the *Fair Accountability and Clarity in Tax Subsidies Act* (Act). Authorizes the Department of Economic and Community Development (ECD) to recover the amount of money, grants, funds or other incentives provided by the Department if any benefitting entity fails to fulfill commitments, including failure to add 100 percent of the committed jobs agreed to or failure to submit annual and baseline reports, as applicable. Provides ECD access to any relevant information and records, confidential or otherwise, of any applicable entity unless such access is denied by state or federal law.

Removes confidentiality protections from certain franchise and excise tax credits and sales and use tax credits for qualified headquarters facilities.

Removes the authority of ECD to award franchise and excise tax credits to qualified businesses in certain instances.

Removes the authority of ECD to lower the number of jobs that must be created to qualify for a job tax credit.

Requires any business claiming the industrial machinery tax credit, a job tax credit, or qualified headquarters facilities sales and use tax credit to file an annual report with ECD which contains at a minimum, the number of employees of the qualified business based in this state on the last day of the report year and the incremental amount of qualified investments made in the report year.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – \$501,600/One-Time/FastTrack Fund  
\$138,400/Recurring/FastTrack Fund

Other Fiscal Impact – Existing FastTrack appropriations from the General Fund can be used to cover the estimated one-time and recurring increase in expenditures; however this will reduce the extent of funding otherwise available for FastTrack incentives.

To the extent the proposed legislation results in additional funding remaining in the FastTrack program due to recovered funds by ECD or reductions in fund disbursement to certain grant recipients, such additional funds could be used to fund

the expenditures associated with this legislation and/or future appropriations from the General Fund to the FastTrack program could be reduced.

The proposed changes to the tax credit provisions of the current law could impact franchise and excise tax collections. However, the Fiscal Review Committee staff does not have sufficient information to accurately estimate the magnitude or timing of any such impact.

#### **IMPACT TO COMMERCE OF ORIGINAL BILL:**

Other Commerce Impact – Increasing the clawback threshold and applying it to all FastTrack grants and loans, could result in an increase in the amount of grants, funds, or other incentives refunded to ECD from businesses, and thus, decrease the amount of grant funds available for economic development.

The proposed changes to the franchise and excise tax credit provisions could impact respective tax collections. As a result, taxpayer liabilities may change. However, Fiscal Review Committee staff does not have sufficient information to accurately estimate the extent or timing of any such impact to commerce.

**SUMMARY OF AMENDMENT (006049):** Deletes all language after the enacting clause.

Deletes certain franchise tax credit provisions and qualified headquarters sales and use tax credit provisions that currently authorize the Commissioner of the Department of Revenue (DOR) to lower the number of jobs that must be created in order for an entity to qualify for such tax credits.

Authorizes ECD to execute a separate agreement in conjunction with any capital grant awarded by ECD for economic development purposes that reserves the right of ECD to recover any capital grant funds awarded or disbursed, if the beneficiary fails to fulfill the commitments related to the grant.

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

**Other Fiscal Impact – The proposed changes to the specified tax credit provisions will impact franchise and excise tax collections. However, the Fiscal Review Committee staff does not have sufficient information to accurately estimate the magnitude or timing of any such revenue impact.**

**Any impact on capital grants or economic development grants awarded by the Department of Economic and Community Development is estimated to be not significant.**

Assumptions for the bill as amended:

- The proposed changes to the tax credit provisions will impact franchise and excise tax collections. However, the Fiscal Review Committee staff does not have sufficient information to accurately estimate the magnitude or timing of any such impact.
- The proposed legislation authorizes ECD to execute a separate agreement in conjunction with any capital grant awarded by ECD that reserves the right of ECD to recover any capital grant funds awarded or disbursed, if the beneficiary fails to fulfill the commitments made related to the grant.
- The extent to which this authorization will result in any recovery of capital grants by ECD, upon a beneficiary's failure to fulfill agreed upon commitments, is unknown. However, it is assumed that any such impact on the total amount of capital grants awarded by ECD will be not significant as ECD will award any recovered funds to other eligible grantees.
- ECD can ensure compliance with the proposed legislation utilizing existing resources without a significant increase in state expenditures.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Other Commerce Impact – The proposed changes to the specified tax credit provisions will impact respective taxpayer liabilities, thus causing an impact to commerce. However, Fiscal Review Committee staff does not have sufficient information to accurately estimate the extent or timing of any such impact to commerce.**

**Any impact on capital grants awarded to businesses is assumed to cause no significant impact to total business revenue, commerce or jobs in Tennessee.**

Assumptions for the bill as amended:

- The total amount of capital grant funding received by businesses in the state will not be significantly impacted by the proposed legislation.
- The proposed changes to the tax credit provisions of the current law could impact franchise and excise tax collections. However, the Fiscal Review Committee staff does not have sufficient information to accurately estimate the magnitude or timing of any such impact.

**CERTIFICATION:**

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



Krista Lee Carsner, Executive Director

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