

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 8001 – SB 8002

August 11, 2020

SUMMARY OF ORIGINAL BILL: Enacts the “Tennessee COVID-19 Recovery Act.” Provides immunity from civil liability for loss, damages, injury, or death arising from COVID-19, unless the claimant proves by clear and convincing evidence of gross negligence or willful misconduct. Requires any action to file a verified complaint and a certificate of good faith with a written statement from a physician. Stipulates a severability clause, should any part of the legislation be held invalid. Applies to all claims arising from COVID-19, except those filed or given written notice prior to suit on or before August 3, 2020. Repeals the act on July 1, 2022.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (019183): Deletes and replaces language in the original bill to specify that claims are required to have clear and convincing evidence that the act or person proximately caused the loss, damage, injury, or death by an act or omission constituting gross negligence or willful misconduct.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Per the language of this legislation, the state does not waive its sovereign immunity for any loss, damage, injury, or death arising from COVID-19 unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission of the state or an employee or agent of the state constituting gross negligence. Further, there is no claim unless the claimant proves by clear and convincing evidence that the person proximately caused the loss, damage, injury, or death by an act or omission constituting gross negligence or willful misconduct.
- The first confirmed case of coronavirus in Tennessee was announced by the Department of Health on March 5, 2020. This legislation applies to all claims arising from COVID-19, except those filed or given written notice prior to suit on or before August 3, 2020.
- It cannot be reasonably determined if any or how many claims related to coronavirus would be properly filed under current law against a state or local governmental entity that have not already been filed or given written notice prior to suit on or before August

3, 2020. For any such claims, it is assumed that state and local governments have not acted with gross negligence or willful misconduct.

- Any impact resulting from this legislation will be borne by private parties to civil actions.
- This legislation will not significantly impact courts' caseloads.
- Therefore, enactment of this legislation will not result in a significant fiscal impact to state or local government.

CERTIFICATION:

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

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

Krista Lee Carsner, Executive Director

/jmg