TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 78

February 8, 2021

SUMMARY OF BILL: Deletes the *Paperwork Reduction and Simplification Act of 1976.* Requires the Commissioner of Finance and Administration (F&A), rather than the Commissioner of the Department of General Services (DGS), to keep a permanent record of the proceedings of the State Protest Committee (SPC). Requires the Commissioner of DGS to keep a permanent record of the documents regarding protests of solicitations submitted to the SPC. Deletes the provision prohibiting state agencies from addenda to bid documents within less than 48 hours of the bid opening date during any competitive bidding of any kind. Establishes that the regulation for addenda to bid documents before a bid opening date does not apply to the Central Procurement Office (CPO) or any purchases or contracts procured by the CPO.

Establishes the pilot project to authorize state agencies, in consultation with DGS and in accordance with policies of the State Building Commission, to enter into energy performance or guaranteed energy savings contracts enacted in Public Chapter 902 from 2018 as permanent practice. Deletes the requirement for the Commissioner of the Department of Environment and Conservation (TDEC) to submit an annual report of the results of each pilot project to the Governor, Comptroller of the Treasury, and General Assembly. Requires any energy service company executing an energy performance contract or guaranteed energy savings contract to provide a written guarantee that the savings produced by such contract will be sufficient to pay for the financing repayment costs for that year. Requires the energy service company to post a performance bond, letter of credit, or other surety with the procurement agency in the total amount of guaranteed savings over the contract term.

ESTIMATED FISCAL IMPACT:

**Decrease State Revenue – $33,000/FY21-22 and Subsequent Years/
Department of General Services**

**Decrease State Expenditures – $33,000/FY21-22 and Subsequent Years/
Various State Agencies**

Assumptions:

- Pursuant to Tenn. Code Ann. § 4-25-104 and 4-25-105, every agency of state government is required to submit standardized paper forms to DGS for processing and approval.

- DGS charges $35 to process and approve these paper forms. In FY20-21, DGS processed 944 forms.
- Eliminating the requirement to process these paper forms will result in a recurring decrease in state revenue to the DGS estimated to be $33,040 (944 x $35) in FY21-22 and subsequent years.
- A recurring decrease in state expenditures to various state agencies of $33,040 in FY21-22 and subsequent years.
- DGS currently utilizes approximately one-half of one full-time equivalent position to accomplish these requirements. The position will not be eliminated upon passage of this legislation as the position will shift to other responsibilities. In addition, DGS does not incur significant processing costs to process the paper forms. Therefore, any decrease in state expenditures to DGS will be not significant.
- Based on information provided by DGS, any increase in state expenditures to various state agencies is estimated to be not significant.
- The Commissioner of F&A and the Commissioner of DGS can keep record of the required documents from the SPC within existing resources.
- Pursuant to Tenn. Code Ann. § 12-4-113(a), any state agency, county, or municipal corporation is prohibited from addenda to bid documents within less than 48 hours of the bid opening date during competitive bidding of any kind unless the bid deadline is extended for a reasonable time.
- Exempting state agencies and the CPO from addenda to bid documents within 48 hours of the bid opening date during a competitive bidding process is not estimated to significantly change the price of goods and services procured by the state.
- Counties and municipal corporations will continue to be subject to the bid document deadline.
- A guaranteed energy savings contract guarantees a certain amount of savings for energy costs realized by the state. If the savings are not met, the vendor will pay the savings to the state.
- Requiring an energy service company to post a performance bond, letter of credit, or other surety bond with the procuring agency in the amount of guaranteed savings over the contract term ensures that the state will be reimbursed for guaranteed savings from energy measures in the contract.

CERTIFICATION:

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

Bojan Savic

Bojan Savic, Interim Executive Director

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