

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2223 – SB 2275

February 13, 2018

SUMMARY OF BILL: Authorizes sponsors of legislation to appeal the fiscal note for their legislation to the Fiscal Review Committee (FRC) by providing notice of appeal, electronically or otherwise, to the Executive Director (ED) of the FRC.

Requires the FRC to conduct a hearing on any such appeal no later than seven business days after receipt of the notice of appeal and to hear testimony from sponsors, the ED of the FRC, and in the discretion of the FRC, any other interested person. Establishes that the ED of the FRC has the burden, by preponderance of the evidence, to prove that the fiscal note furnished for the respective legislation is accurate.

Upon conclusion of any hearing on an appeal, the FRC shall issue a decision on the appeal no later than 48 hours after the hearing, which shall either deny the appeal and uphold the estimated fiscal impact, or affirm the appeal and modify the estimated fiscal impact consistent with findings of the FRC at the hearing on the appeal.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$61,800

Other Fiscal Impact – The provisions of the proposed legislation could result in changes to fiscal analysis as determined by the members of the Fiscal Review Committee instead of the FRC staff and could extend the average length of session. Both of these could result in significant additional expenditures. Due to multiple unknown factors, the exact increase in expenditures cannot be reasonably quantified.

Assumptions:

- This legislation is assumed to apply to fiscal memoranda applicable to amendments, as well as to fiscal notes applicable to originally-filed bills.
- Currently, FRC staff request information from government entities and complete independent research during the drafting of fiscal notes and fiscal memorandum. This

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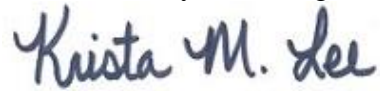
information is considered public information after the issuance of any fiscal note or fiscal memorandum and is provided upon request.

- Any fiscal impact resulting from the creation of the mechanism, by which a sponsor of a bill or amendment can dispute the respective fiscal note or fiscal memorandum, can be accommodated within existing resources of the FRC.
- Any fiscal impacts resulting from the proposed notification requirements for appeals and establishment of procedures for stakeholders testifying before the FRC concerning any filed appeal, can be accomplished within the existing resources of the FRC and applicable agencies.
- Due to the limited availability of FRC members, the necessary timing of hearing appeals such that the seven-day requirement as proposed can be accomplished, and so as not to significantly alter the pace of session, and the limited meeting space that will accommodate the FRC, it is assumed the additional FRC meetings required for the exclusive purpose of hearing appeals on fiscal estimates will have to occur on Fridays during legislative sessions.
- Due to the pace of session, the issuance of fiscal notes and fiscal memorandums, meeting the 72-hour notice requirements and the specified timeliness of when appeal hearings will be required (within seven days after the notice of appeal), it is assumed FRC hearings will begin the first Friday in February and will continue each Friday through mid-April resulting in at least 10 appeal hearings.
- In any given legislative session, there are at least 2,000 fiscal notes and fiscal memorandums issued. If 10 percent, or 200, appeals are filed annually, the FRC will hear approximately 20 appeals each meeting (200 appeals / 10 hearings)].
- There are 17 members of the FRC who will be entitled to receive per diem for attending the additional FRC meetings. In addition, it is estimated that there will be at least 10 other members (sponsors of legislation appealing fiscal notes) that will also be entitled to receive per diem by virtue of attending the FRC meetings at which their appeals are being heard. Therefore, it is estimated that an average of 27 members (17 + 10) will receive one additional day of per diem for each Friday meeting under the provisions of this legislation.
- The daily member per diem is currently \$229 per legislative day.
- The recurring increase in state expenditures from the General Fund is estimated to exceed \$61,830 (10 minimum meetings per year x 27 average members x \$229 per member per day).
- Constitutionally, the budget has to include an appropriation for the first year's funding of any legislation passed by the General Assembly. The General Assembly meets this constitutional requirement by using the analysis of the fiscal note or fiscal memorandum.
- It is unknown as to the exact outcome of any appeal before the FRC and the impact that will result on the fiscal analysis of any piece of legislation. Should the FRC significantly alter the fiscal analysis attached to legislation, there will be significant changes to the amounts necessary to be included in the budget.
- Further, should the FRC alter the fiscal analysis of legislation after the budget has passed and funding is not properly included in the budget, the proposed legislation will become null and void.
- Therefore, should the proposed legislation extend the average length of session due to all fiscal note and fiscal memorandum appeals being heard prior to the budget being passed,

there will be an increase in state expenditures of an unknown amount. For each day that session is extended there is an increase in per diem expenditures of \$30,228 (132 members x \$229).

CERTIFICATION:

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

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

Krista M. Lee, Executive Director

/rnc