

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2879 - SB 2843

February 25, 2024

SUMMARY OF BILL: Prohibits a business entity or individual from entering into an agreement relating to agricultural land with individuals who are citizens of China, Iran, North Korea, Russia, or another country that may be designated by the Governor. Prohibits a business entity from entering into an agreement relating to critical infrastructure or agricultural land with a company:

- if, under the agreement, the company would be granted direct or remote access to or control of critical infrastructure or agricultural land, excluding access specifically allowed by the business entity for product warranty and support purposes; and
- if the business entity knows that the company is:
 - owned by, or the majority of stock or other ownership interest of the company is held or controlled by:
 - individuals who are citizens of one of the prohibited countries; or
 - a company or other entity, including a governmental entity, that is owned or controlled by citizens of, or is directly controlled by, the government of one of the prohibited countries; or
 - headquartered in one of the prohibited countries.

Stipulates that such prohibitions apply regardless of whether the company's or its parent company's securities are publicly traded, or the company or its parent company is listed on a public stock exchanged as one of the prohibited countries.

Authorizes the Governor, after consultation with the Commissioner of the Department of Safety (DOS), to designate a country as a threat to critical infrastructure or agricultural land for these purposes. Requires the Governor to consult with the Office of Homeland Security within the DOS to assess a threat to critical infrastructure or agricultural land for purposes of making a such a designation.

FISCAL IMPACT:

Other Fiscal Impact – It is assumed that state and local governments could incur an increase in expenditures related to resolving any disruptions to contracts or services with vendors that provide such services for critical infrastructure. Due to multiple unknown variables, a precise estimate of any such increases cannot be reasonably determined.

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Assumptions:

- As defined in the legislation:
 - "agricultural land" means land that is classified as farm property for tax purposes, and is assessed at 25 percent of its value;
 - "company" means a sole proprietorship; organization; association; corporation; partnership; joint venture; limited partnership; limited liability partnership; or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit;
 - "critical infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility;
 - "cybersecurity" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access; and
 - "designated country" means a country designated by the governor as a threat to critical infrastructure or agricultural land.
- The proposed restrictions apply only to individuals and business entities. They do not apply directly to governmental entities.
- The prohibitions on such agreements are assumed to apply only to future agreements. However, they could impact potential renewals of existing agreements.
- A state or local governmental entity that contracts with a private company for services related to what the legislation considers critical infrastructure could be indirectly impacted by the proposed legislation if such a private company is unable to renew an existing agreement with a prohibited entity that is important to the services they provide.
- Pursuant to Tenn. Code Ann. § 12-12-110, political subdivision in Tennessee are prohibited from entering into any procurement of contract over \$1,000 with a person who engages in investment activities in Iran. There are no similar statutes for the other nations prohibited under the proposed legislation.
- It's unknown exactly what impacts to a state or local governmental entity might result from this prohibition. These could include temporary disruptions to certain public services or increased costs for such services.
- It is assumed that any such companies so affected would be able to procure an agreement to replace the prohibited agreement on the open market with an entity that is not prohibited under the legislation. It is likewise assumed that governmental entities would be able to do the same if the affected company was unable to deliver the services as agreed or as is competitive on the open market.
- However, in such cases, state and local governmental entities could still incur an increase in expenditures either related to temporary increased costs for services or various operational and administrative expenditures related to procuring new vendors.
- Due to the wide range of unknown variables, a precise estimate of such increases cannot be reasonably determined.
- Any impacts to individuals and business will be borne by those private parties.

- However, it is assumed that the individuals and businesses potentially impacted by such prohibitions will be able to secure other such agreements on the open market with entities that are not prohibited.
- As such, any potential impacts to state or local governments related to business or property taxes is estimated to be not significant.
- The Governor, the DOS, and the DOS’s Office of Homeland Security can assess and consult with one another on any potential threats to critical infrastructure or agricultural land, and issue any additional designations as required in the normal course of business without incurring a significant increase in expenditures.
- According to a 2022 American Farm Bureau Federation report, *Foreign Investment in U.S. Ag Land – The Latest Numbers*, the investors from the proposed prohibited nations that own agricultural land in Tennessee are Iranian.
- There is also a small section of agricultural land owned by Venezuela-based investors, which could be considered a prohibited country by DOS and the Governor, as it is considered an “adversarial nation,” according to the U.S. Department of the State.
- The actual Tennessee acreage owned by these entities is modest. Any prohibitions to agreements or ownership of agricultural land is not expected to significantly decrease state or local tax revenue.

IMPACT TO COMMERCE:

NOT SIGNIFICANT

Assumptions:

- It is not known how many pending or future private land or business agreements may be disrupted by the proposed restrictions.
- However, it is assumed that the individuals and businesses potentially impacted by such prohibitions will be able to secure other such agreements on the open market with entities that are not prohibited.
- As such, any impact on jobs and commerce in Tennessee is estimated to be not significant.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director