

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 571 - SB 603

March 12, 2023

SUMMARY OF BILL: Prohibits a medical institution of higher education, or a trade school offering healthcare-related degrees, certification programs, or training that receives state funds from requiring its applicants or admitted students to ascribe to Diversity, Equity, and Inclusion (DEI) ideologies and to annually certify to the State Board of Medical Examiners (SBME) and Tennessee Higher Education Commission (THEC) that such is not required. Requires medical providers and medical institutions of higher education to also certify with the SBME annually and all recipients of state contracts or grants to certify to the Chief Procurement Officer, that they don't require their employees, contractors, volunteers, vendors, or agents to ascribe to, study, or be instructed with DEI materials. Requires SBME to publish on its website, on an annual basis, a list of all healthcare-related contractors, grant recipients, healthcare providers, medical institutions of higher education, and organizations that provided such certification.

Requires the medical institutions to publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database that is readily searchable by the public.

Requires medical institutions to require a standardized admissions test focused on knowledge and critical thinking around science and medical training. Requires a medical institution that alters academic standards for admission to first submit the new standards to the Speaker of the Senate, the Speaker of the House of Representatives, and THEC for approval upon which if approved does not become effective for 60 days and upon if disapproved by a joint resolution by the General Assembly and Governor are null and void.

Prohibits healthcare-related professional licensing boards or organizations that issue state-required, healthcare-related professional licenses and certifications from requiring, adopting or imposing as condition of obtaining or renewing a certificate or license any program, training, education or materials related to DEI.

Requires a state entity applying for a federal healthcare-related grant related to DEI to publish on its website all materials, requirements, and instructions related to the federal grant application and to submit a copy of the grant proposal to the SBME for public posting and a copy to all members of the Health and Welfare Committee of the Senate and the Health Committee of the House of Representatives.

Authorizes an aggrieved person to seek legal action within one year against a healthcare provider or medical institution of higher education for any violation related to DEI. Provides

statutory damages of at least \$100,000 if a court found such a violation. Authorizes the Attorney General to establish rules and investigate allegation of violations and seek civil penalties of up to \$1,000,000 against such entities found to be in violation.

FISCAL IMPACT:

**Increase State Expenditures - \$92,000/FY23-24/Board of Medical Examiners
\$87,000/FY24-25 and Subsequent Years/
Board of Medical Examiners**

**\$94,300/FY23-24 and Subsequent Years/
General Fund**

**\$920,300/FY23-24/Tennessee Board of Regents
\$914,800/FY24-25 and Subsequent Years/
Tennessee Board of Regents**

**Exceeds \$3,466,300/FY23-24/Locally Governed Institutions
Exceeds \$2,626,300/FY24-25 and Subsequent Years/
Locally Governed Institutions**

**Exceeds \$1,091,500/FY23-24/University of Tennessee System
Exceeds \$566,500/FY24-25 and Subsequent Years/
University of Tennessee System**

Other Fiscal Impact - The proposed legislation may result in increases in state and local expenditures associated with compliance measures, potential civil litigation and could jeopardize federal funding and accreditation status; however, due to multiple unknown factors, a precise fiscal impact cannot be determined.

Assumptions:

Department of Health:

- Based on information provided by the Department of Health, the proposed legislation cannot be accommodated within existing resources. The SBME will require one additional Regulatory Board Administrative Assistant 2 position to collect, process, and maintain the required disclosures.
- The one-time increase in state expenditures associated with the position is estimated to be \$5,000 for computer and supplies.
- The recurring increase in state expenditures associated with the position is estimated to be \$87,006 [(\$59,496 salary + \$17,210 benefits + \$7,900 administrative costs + \$1,800 communications + \$600 supplies) x 1 position] in FY23-24 and subsequent years.
- There will be a total increase in state expenditures of \$92,006 (\$87,006 position cost + \$5,000 one-time cost) in FY23-24.

- Pursuant to Tenn. Code Ann. § 4-29-121, all health-related boards are required to be self-supporting over a two-year period. The Board of Medical Examiners had a surplus of \$937,379 in FY20-21, a surplus of \$902,739 in FY21-22, and a cumulative reserve balance of \$3,289,036 on June 30, 2022.

Department of Education:

- The Department of Education provides that health-related licensed school personnel are currently required to demonstrate an understanding or support of DEI through training, education, or materials. The personnel must complete state board-approved Educator Preparation Programs (EPPs) which is reviewed and approved through the Council for the Accreditation of Educator Preparation comprehensive review and state-managed comprehensive reviews (TNCR) with ensures an understanding of DEI and is a condition for receiving or renewing any of these personnel licenses.
- Based on information provided by the Department of Education (DOE), the proposed legislation cannot be accommodated within existing resources. The DOE will require one additional Education Consultant 3 position to manage operations and communication with all 44 EPPS in relation to TNCR, updating the TNCE handbook and making new recommendations for TNCR and certifying with the State Board of Education.
- The recurring increase in state expenditures associated with the position is estimated to be \$94,322 [(\$74,604 salary + \$19,718 benefits) x 1 Education Consultant 3 position] in FY23-24 and subsequent years.

Tennessee Board of Regents:

- Based on information provided by the Tennessee Board of Regents (TBR) in order to comply with the legislation's requirements regarding publishing course syllabi and material for all required courses, TBR will require one new staff member for each of the 13 community colleges and will require two new positions to gather all such data from a Tennessee College of Applied Technology (TCAT).
- A total of 15 additional positions (13 Academic Personnel positions, 2 Academic Personnel positions) beginning in FY23-24.
- It is assumed that commercially available tests will be used to meet the admissions testing requirement.
- Additionally, TBR does not currently require admissions test into a community college (CC) or TCATs and implementing such testing requirement would require updates to enrollment processes and software management tools an estimated one-time cost of \$5,500.
- A recurring increase in state expenditures of \$914,832 {[((\$45,000 salary + \$14,804 benefits) x 13 Academic Personnel positions] + [(\$52,621 salary + \$16,069 benefits) x 2 Academic Personnel positions]} in FY23-24 and subsequent years.
- There will be a total increase in state expenditures of \$920,332 (\$914,832 position cost + \$5,500 one-time cost) in FY23-24.

Locally Governed Institutions:

- Based on information provided by each of the six locally governed institutions (LGIs), prohibiting DEI training, education, and materials could place each of the LGIs medical

and healthcare related programs at accreditation risk by their respective accrediting bodies. In addition, East Tennessee State University's College of Medicine and College Pharmacy could lose accreditation status. Further accreditation loss would cause a loss in enrollment for such programs resulting in a loss of tuition revenue or federal grants or funding.

- The precise decrease in revenue or federal funding or grants for each program cannot be reasonably determined, if any, nor the timing of the loss in accreditation status from each accrediting body, if any, can be determined.
- Each LGI would need two new positions to catalog and coordinate the syllabi of all mandatory courses, and one new position for IT personal to manage the new database and publish the information, and a one-time purchase of new software to develop such a database.
- A total of 18 additional positions (6 IT Personnel positions, 12 Academic Personnel positions) beginning in FY23-24.
- There will be a one-time cost of \$240,000 (\$40,000 software x 6 LGIs) for software.
- Some programs will require creation of an admissions test as required by this legislation as certain programs do not have an admissions test commercially available.
- Based on information from Austin Peay, the one-time increase in state expenditures to develop new tests is estimated to exceed \$300,000; the recurring increase in state expenditures is estimated to exceed \$200,000 for ongoing testing and maintenance.
- It is reasonably assumed that the other five LGIs will experience similar costs, resulting in a total one-time increase in state expenditures exceeding \$1,800,000 (\$300,000 x 6) in FY23-24 and recurring expenditures exceeding \$1,200,000 (\$200,000 x 6) in FY24-25 and subsequent years.
- There will be a recurring increase in state expenditures of \$1,426,272 {[((\$85,000 salary + \$21,444 benefits) x 6 IT Personnel positions) + [(\$50,000 salary + \$15,634 benefits) x 12 Academic Personnel positions]} in FY23-24 subsequent years.
- A total increase in state expenditures exceeding \$3,466,272 (\$1,426,272 positions + \$240,000 software + \$1,800,000) in FY23-24.
- There will be a recurring increase in state expenditures exceeding \$2,626,272 (\$1,426,272 + \$1,200,000) in FY24-25 and subsequent years.

University of Tennessee System:

- Based on information provided by the University of Tennessee (UT) the proposed legislation cannot be accommodated within existing resources. UT will require one-time software development cost for each of the five campuses of \$75,000.
- According to UT, some programs will require creation of an admissions test as certain programs do not have an admissions test commercially available.
- A one-time increase in state expenditures for UT to develop such tests is estimated to exceed \$400,000 in FY23-24; and recurring increase in state expenditures estimated to exceed \$250,000 for ongoing testing and maintenance in FY24-25 and subsequent years.
- A total of four additional positions at four campuses and recurring cost of \$20,000 for the UT Health Science Center (UTHSC) center in order to comply with syllabi and grade database requirements.

- There will be a one-time increase in state expenditures associated with each campus estimated to exceed \$375,000 (\$75,000 software x 5 campuses).
- There will be a recurring increase in state expenditures of \$316,510 {[((\$55,000 salary + \$16,464 benefits) x 4 Academic Personnel positions] + [(\$20,000 UTHSC + \$10,654 benefits) x 1 position]} in FY23-24 and subsequent years.
- A total increase in state expenditures exceeding \$1,091,510 (\$316,510 positions + \$375,000 software + \$400,000 testing) in FY23-24.
- There will be a recurring increase in state expenditures exceeding \$566,510 (\$316,510 + \$250,000 testing) in FY24-25 and subsequent years.
- UT could expect loss in accreditation status from each of the medical and healthcare-related fields and their respective accrediting bodies. In addition, there be an anticipated loss of accreditation at each College of Medicine and College Pharmacy in the UT system.
- Further accreditation loss would cause a loss in enrollment for such programs resulting in a loss of tuition revenue and could also result in a loss to federal grants or funding.

Other Impacts:

- The proposed legislation authorizes an aggrieved person to seek legal action and collect monetary damages within one year against a healthcare provider or medical institution of higher education for any violations related to DEI.
- As such, the provisions of the legislation could create legal risk and jeopardize federal funding awards from programs such as Title 1, Perkin, IDEA and other awards of an estimated \$1,293,583,239 in FY23-24.
- Further legal risk and the jeopardy of federal funding and awards for state and local government, including but not limited to each LGI, TBR CC or TCAT and the UT system are present; however, the precise amount, if any, and the timing of such funds being withheld cannot be reasonably determined.
- Any increase in state litigation expenditures is dependent on multiple unknown factors and cannot be reasonably determined.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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