

SB 936 - HB 1271

FISCAL MEMORANDUM



Fiscal Review Committee
Tennessee General Assembly

March 17, 2025

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SUMMARY OF BILL AS AMENDED (005854): Requires state agencies, authorities, boards, commissions, departments, and offices (state governmental entities, or SGEs) to, no later than July 1, 2025, revise any existing rule, policy, and procedure that includes a reference to a natural person's sex or gender to state that those terms are defined as the immutable characteristics of the person's reproductive system that identify the person as male or female as determined by anatomy and genetics existing at the time of birth.

Prohibits SGEs, on or after July 1, 2025, from adopting or enacting any rule, policy, or procedure that reflects sex or gender that is not based upon or defined as the immutable characteristics of a natural person's reproductive system that identify the person as male or female, as determined by anatomy and genetics existing at the time of birth.

On or after July 1, 2025, a person may file a complaint with the Comptroller of the Treasury (COT) that an SGE is in violation and noncompliance with the aforementioned requirement. Upon receipt of a credible complaint, the COT is authorized to investigate whether the SGE is, in fact, noncompliant. If the COT confirms such noncompliance, it must provide written notice of its findings to the executive head or governing body of the respective SGE, as applicable.

If such noncompliance is attributable to an SGE that is eligible to enter into a grant contract with the Department of Economic and Community Development (ECD), and is not remedied within 90 days of receipt of such written notice by the COT, such SGE becomes ineligible to enter into any grant contract with the ECD until it comes into compliance, as evidenced by a certification of compliance issued by the COT.

If such noncompliance is attributable to an SGE that is an institution of higher education or otherwise ineligible to enter into a grant contract with the ECD, and is not remedied within 90 days of receipt of such written notice, the COT must provide the notice of the SGE's noncompliance to the Department of Finance and Administration (F&A) and to the chairs of the Joint Government Operations Committee of the Senate and House of Representatives (Committee). Upon receiving a first notice, F&A must notify the noncompliant entity that a second or third notice of noncompliance will result in a loss of General Fund revenue from the state. For a second notice of noncompliance, F&A must withhold 10 percent of the General Fund revenue the entity is otherwise entitled to receive for the next subsequent fiscal year, to be held in escrow until such SGE comes into compliance, as evidenced by the issuance of a certificate of compliance issued by the COT. For a third or subsequent notice of noncompliance, F&A must withhold 20 percent of the total General Fund revenue the entity is otherwise entitled to receive for the next subsequent fiscal year, to be held in escrow until such SGE comes into compliance, as evidenced by the issuance of a certificate of compliance issued by the COT. Upon a receipt of a third notice of noncompliance, the Chairs of the Committee must require that the executive head or governing body of the entity, as

applicable, appear before such Committee. After such hearing, the Committee is required to make recommendations to the Speakers of the Senate and House of Representatives regarding the noncompliance of the respective SGE.

Requires counties, incorporated cities or towns, metropolitan governments, school districts, utility districts, or other political subdivisions of the state (local governmental entities, or LGEs), no later than July 1, 2025, to revise any existing ordinance, resolution, rule, policy, and procedure that includes a reference to a natural person's sex or gender to state that those terms are defined as the immutable characteristics of the person's reproductive system that identify the person as male or female as determined by anatomy and genetics existing at the time of birth.

Prohibits LGEs, on or after July 1, 2025, from adopting or enacting any ordinance, resolution, rule, policy, or procedure that reflects sex or gender that is not based upon or defined as the immutable characteristics of a natural person's reproductive system that identify the person as male or female, as determined by anatomy and genetics existing at the time of birth.

On or after July 1, 2025, a person residing in the jurisdiction of an LGE which has not complied with the aforementioned requirements may file a complaint in chancery court. Specifies that such person carries the burden of proof, upon a preponderance of the evidence, that such local government is in noncompliance. If the court affirms such noncompliance, it must issue a writ of mandamus ordering the noncompliant LGE to become compliant, and may take other actions within the scope of the jurisdiction of the court to ensure compliance. If such noncompliance is not remedied with ninety days of the issuance of the writ of mandamus, the LBE becomes ineligible to enter into any grant contract with the ECD until such time the LGE becomes compliant, as evidenced by issuance by the court of a certification of compliance.

Specifies that an SGE or LGE is not considered compliant with this act based solely on its acceptance of a valid birth certificate or other lawfully issued form of identification.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

State Compliance

- Pursuant to Tenn. Code Ann. § 1-3-105(c), the term "sex" in state law means a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person's biological sex.
- Pursuant to federal Executive Order 14168, issued on January 20, 2025, it is the policy of the United States to recognize two sexes, male and female.
- It is assumed that all applicable SGEs are currently, or will, within the timeline afforded by this legislation, revise any rules, policies, and procedures which could be adjudged to be in violation of this legislation.

Local Compliance

- It is generally assumed that all applicable LGEs are currently compliant, or will revise any rules, policies, and procedures which could be adjudged to be in violation of this legislation in order to prevent any decrease in ECD funding.
- Therefore, any decrease in local government revenue from reduced ECD grant funding is estimated to be not significant.

Impacts to the COT, ECD, F&A, General Assembly, and Local Courts

- This legislation requires the COT to receive complaints regarding noncompliant SGEs and perform investigations into such noncompliance, as well as issue certificates of compliance to those former noncompliant SGEs which have come into compliance.
- It is assumed that there will be minimal to no investigations commenced by the COT pursuant to this legislation.
- Any impact upon the COT is considered not significant, and can be completed utilizing existing resources.
- The ECD and F&A can perform all duties established by this legislation, utilizing existing resources.
- There will be no significant impact to funding currently disbursed to any SGE or LGE, as part of an ECD Grant or from the state General Fund, as it is generally assumed that an SGE or LGE will come into compliance to prevent any decrease in funding.
- It is assumed that any hearing that could take place before the Committee would occur during a regularly-scheduled hearing.
- This legislation will have no significant impact on the current caseloads of courts in this state.

CERTIFICATION:

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

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive, flowing style.

Bojan Savic, Executive Director