TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 2261 - HB 2426

April 1, 2024

SUMMARY OF BILL AS AMENDED (017608): Increases, from $1.00 to $1.50 per square foot, the initial tax rate counties are authorized to levy on persons and entities engaged in the development of property under the *County Powers Relief Act* (CPRA). Modifies the growth rate criteria a county must meet to qualify to levy a privilege tax on development.

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact – A permissive, recurring increase in local revenue and permissive increase in one-time local expenditures cannot be estimated with certainty.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 67-4-2908, certain counties may levy a privilege tax on development at an initial tax rate not to exceed $1.00 per square foot on residential property. Counties may increase the rate of the tax by no more than 10 percent after a period of four years from the effective date of the tax or the last rate increase.
- The proposed legislation increases the initial tax rate cap, from $1.00 per square foot to $1.50 per square foot, on residential property, and authorizes counties to impose such tax rate on up to 150,000 square feet of commercial properties as well, excluding the Tennessee Regional Megasite.
- Tennessee Code Annotated § 67-4-2907 provides that a county must meet one or more of the following criteria to levy a privilege tax on development under the CPRA:
    - A growth rate of 20 percent or more in total population from the 1990 federal census to the 2000 federal census or between any subsequent federal decennial censuses; or
    - A nine percent or more increase in population over the period from 2000 to 2004 or over a subsequent four-year period, according to United States Census Bureau population estimates.
- The proposed legislation modifies these criteria and authorizes a county to levy a tax if it experiences:
    - A growth rate of 20 percent or more in population from the 2010 federal census to the 2020 federal census, or between any subsequent federal decennial census; or
    - A nine percent or more growth in population over four consecutive years, according to a special census conducted at the county's expense.
- The proposed legislation requires a county to file a statement with the Comptroller of the Treasury (COT) that provides the population growth qualification, which the COT must verify.

- To continue to levy the tax, a county must verify qualification with the COT every four years, using federal census estimates, or at the end of the final year of every 10-year census period, depending on which criterion the county selected.
- The COT will absorb the additional responsibilities utilizing existing staff and resources, such that any increase in state expenditures is estimated to be not significant.
- According to the United States Census Bureau, the Special Census Program began accepting requests for cost estimates from governmental units starting on March 30, 2023, and will continue to accept requests through May 2027. Data collection began January of 2024 and will conclude in September 2028, ahead of the 2030 Census.
- Costs for a special census will vary from county to county; the extent and timing of any permissive, one-time increase in local expenditures cannot be estimated.
- The proposed legislation authorizes a county that does not satisfy the proposed growth requirements and that levied a development tax or privilege tax under a private act or the CPRA, prior to the effective date of this act, to continue collecting such tax.
- However, a county using the authority of the CPRA may not increase its tax rate unless the county meets the required growth rates.
- The following counties levy a privilege tax under the CPRA: Bedford, Cannon, Jefferson, and Loudon counties. It is assumed these counties will continue to levy such tax; any impact to local revenue is not significant.
- Fourteen counties levy a development tax under a private act, seven of which do not meet the 20 percent growth rate to qualify to levy such tax under the proposed legislation, but could hold a special census to determine if they qualify for the nine percent growth. It is assumed these counties will continue to levy a development tax under a private act, resulting in no significant impact to local revenue.
- The remaining seven counties that levy a development tax by private act do meet the 20 percent growth rate to qualify to levy a privilege tax under the proposed legislation.
- Pursuant to Tenn. Code Ann. § 67-4-2913, a county levying a development tax or impact fee by private act on June 20, 2006 may not simultaneously use the authority provided in the CPRA.
- It is not known if any of the seven counties would cease levying a development tax or impact fee by private act and instead impose a privilege tax on residential and commercial development utilizing the CPRA. Additionally, it is not known which counties will qualify and opt to levy such privilege tax in future years.
- A permissive, recurring increase in local revenue cannot be estimated with certainty.

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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