

HOUSE BILL 777

By Carter

AN ACT to amend Tennessee Code Annotated, Title 3;
Title 4 and Title 9, relative to the review of fiscal
notes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, is amended by adding Sections 2 through 10 as a new chapter 8.

SECTION 2. This chapter shall be known and may be cited as the “Fiscal Note Integrity Act of 2015.”

SECTION 3. This chapter applies only to bills that have been filed for introduction in the house of representatives or the senate and shall prevail over any provision of this title that conflicts with this chapter.

SECTION 4. As used in this chapter, “state agency” or “agency” means any department, board, commission, or other entity of state government.

SECTION 5. All communications, between fiscal review staff and members of the general assembly or between fiscal review staff and an official or employee of a state agency, concerning a bill shall be written and shall constitute public records under title 10, chapter 7.

SECTION 6.

(a) The fiscal review staff shall make a preliminary determination of a bill’s fiscal impact. The staff shall presume that the fiscal impact of implementing the bill is not significant or minimal, unless an expenditure is explicitly required by the language of the bill.

(b) If the staff requests input from an agency concerning the fiscal impact of the bill, then the staff shall send a fiscal analysis form to the agency. The agency shall

promptly complete and return the form. The form required by this section shall be in writing substantially as follows:

FISCAL ANALYSIS FORM

Pursuant to Tennessee Code Annotated, Title 3, Chapter 8, you are hereby requested to provide your agency's estimate of the anticipated fiscal impact of House Bill _____ / Senate Bill _____, which is sponsored by Senator _____ and Representative _____.

You are required to complete this form and return it to the fiscal review staff.

For any estimate of expenditures that you identify below, attach copies of all documentation upon which the estimate is based.

If you do not anticipate a fiscal impact, or if you anticipate a minimal or not significant fiscal impact, please so indicate in the line provided.

After completion, please read the paragraphs below and provide signatures and dates on the lines provided.

Any person who knowingly provides false information on this form will be reported to the Tennessee Ethics Commission pursuant to Tennessee Code Annotated, Title 3, Chapter 8.

Title of agency _____

Name of agency official
or employee preparing form _____

Office address of agency
official or employee _____

Office phone number of
agency official or employee _____

STATEMENT OF FISCAL IMPACT:

Estimate of Fiscal Impact \$ _____
(Provide Dollar Amount)

State whether you anticipate no expenditure

or not significant or minimal expenditure: _____

If you estimate an expenditure other than "not significant" or "minimal," complete (A)–(C):

A. Cite provision(s) of bill requiring estimated expenditure. _____
If not applicable, state "N/A" _____

B. If answer to (A) is "N/A," cite other law(s)* requiring estimated expenditure when read in conjunction with provisions of the bill. _____
If not applicable, state "N/A" _____

**Federal statutes/regulations, state statutes/rules, or federal or state court decisions*

C. If answer to (A) & (B) is "N/A," you may **recommend** the estimated expenditure, if one of following applies:

MARK "X":

- (1) The expenditure is in the best interests of the State _____
OR
(2) The agency will require additional resources to implement the bill _____

Attach Copies of Supporting Documentation*

**Your agency is not required to attach supporting documentation if you reported not significant, minimal, or no fiscal impact.*

CERTIFICATE OF ACCURACY

I certify that the foregoing form is true and correct to the best of my knowledge and understanding. I further acknowledge that anyone who knowingly provides false information on this form will be reported to the Tennessee Ethics Commission pursuant to Tennessee Code Annotated, Title 3, Chapter 8.

Signature of Commissioner _____

Date: _____

Signature of Agency Official
or Employee Preparing Form

Date:

(c) If the agency reports on the form that no expenditure is required, or that any expenditure would be not significant or minimal, then the agency's estimate shall be conclusive upon the fiscal review staff.

(d) If an agency reports on the form that an expenditure is recommended because it is in the best interests of the state, or is required for implementation of the bill, then the fiscal review staff shall independently review and evaluate the agency's recommendation and may affirm, reject, or modify the agency's estimated fiscal impact accordingly.

SECTION 7.

(a) Upon receipt of the information supplied pursuant to Section 6, the fiscal review director shall evaluate the information and shall independently determine whether the bill requires any expenditure and, if so, the amount of the expenditure.

(b) If the fiscal review director determines that an expenditure is required under the provisions of the bill and that the issuance of a fiscal note is appropriate, then the fiscal review director shall submit a preliminary fiscal note to the sponsor of the bill and any state agency that submitted the form required by Section 6.

(c) A preliminary fiscal note shall be confidential for a period of twenty-four (24) hours following transmission of the note to the sponsor, and during that period, no person with access to the preliminary fiscal note shall distribute or otherwise make it available for publication, unless the sponsor consents to the disclosure of the preliminary fiscal note.

(d) The fiscal review director shall issue a preliminary fiscal note stating that the fiscal impact of implementation of the bill is not significant, unless the fiscal review director determines that an expenditure is required under the provisions of the bill.

SECTION 8.

(a) The sponsor of a bill or a state agency submitting the form required by Section 6 may request an informal review of the preliminary fiscal note before the fiscal review director in the manner provided by this section.

(b) The informal review shall be confidential.

(c) A sponsor or agency desiring an informal review shall submit a request to the fiscal review director within twenty-four (24) hours from the date of transmission of the preliminary fiscal note.

(d) Both the sponsor and state agency shall attend the informal review whenever either requests the review. The fiscal review staff member who prepared the preliminary fiscal note shall also attend the informal review.

(e) From the filing of a timely request for an informal review and until the expiration of the twenty-four-hour period to request a review of the fiscal review director's decision pursuant to Section 9, the note shall remain confidential pursuant to Section 7(c). If a request to review the fiscal review director's decision before the committee is not timely filed, then upon expiration of the twenty-four-hour period to request that review, the preliminary fiscal note shall become a final fiscal note and be made available for publication.

(f) At the informal review, the burden of proof is placed on the state agency, and the state agency and sponsor may:

(1) Present such matters as may be relevant to the determination of whether any expenditure is required by the bill and any requested revisions; and

(2) Request testimony from any witnesses, including representatives of the state agency or other state agencies affected by the bill.

(g) Within forty-eight (48) hours following the conclusion of the informal review, the fiscal review director shall provide to the sponsor and state agency a written decision that includes findings of fact, any revisions, and a concise statement of the reasons for the decision.

SECTION 9.

(a) The sponsor of a bill or a state agency submitting a form pursuant to Section 6 may request a hearing before the fiscal review committee to review the fiscal review director's decision issued pursuant to Section 8.

(b) The hearing shall be open to the public.

(c) A sponsor or agency desiring a hearing shall submit a written request to the chair of the committee within forty-eight (48) hours from the date of issuance of the executive director's decision.

(d) The chair shall schedule and convene the hearing. The hearing shall be held within five (5) business days from the receipt of the request.

(e) At the hearing, the sponsor and the state agency shall have the same rights and responsibilities provided in Section 8(f); except, that the state agency shall not present evidence beyond evidence presented by the state agency at the informal review.

(f) The committee shall vote to affirm, reject, or revise the fiscal note. Within twenty-four (24) hours following the conclusion of the committee hearing, the committee shall issue the fiscal note, whether revised or in its original form, and make it available for publication. The vote of the committee shall be a final action, and there shall be no review or other appeal of that action.

SECTION 10.

(a) The fiscal review staff shall report the following to the ethics commission:

(1) Falsification of information submitted to the staff pursuant to this chapter; and

(2) Undue influence by a member of the general assembly or official or employee of a state agency.

(b)

(1) The fiscal review staff shall report to the speaker and ethics committee of the senate any oral communications made by a member of the senate in violation of Section 5.

(2) The fiscal review staff shall report to the speaker and ethics committee of the house of representatives any oral communications made by a member of the house of representatives in violation of Section 5.

SECTION 11. This act shall take effect October 1, 2015, the public welfare requiring it.