

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 445 - HB 508

February 27, 2017

SUMMARY OF BILL: Authorizes certain persons and organizations to file for declaratory and injunctive relief and damages against a local government entity for enactment or enforcement of any ordinance or policy, after July 1, 2017, that adversely affects the person or organization's membership as a lawful gun owner. Defines acceptable damages which can be awarded to the prevailing plaintiff.

Prohibits state and local government from prohibiting or restricting the possession of a firearm on state or local government owned and operated property unless the owning government provides a metal detector, at least one trained security officer, and bag inspection stations at every public entrance when the building is open to the public.

ESTIMATED FISCAL IMPACT:

**Increase Local Expenditures - Exceeds \$200,000/One-Time/Permissive
Exceeds \$1,000,000/Recurring/Permissive**

Other Fiscal Impact – Passage of this bill could put the Departments of Education and Children's Services out of compliance with federal regulations. The amount and timing of federal funding that could be jeopardized is unknown. Annual federal funding for both departments total approximately \$436,179,800. Other federal funding to other state agencies could be impacted as well.

To the extent state agencies elect to purchase additional metal detectors and employ additional trained security officers, the one-time increase in state expenditures is reasonable estimated to exceed \$100,000 and the recurring increase in state expenditures is reasonably estimated to exceed \$1,000,000.

Assumptions related to law suits against local government:

- The proposed language removes immunity from suit for local government entities choosing to enact or enforce an ordinance or policy, after July 1, 2017, which would apply specifically to a person legally possessing a firearm or to certain membership organizations.

- Such persons and organizations would bring suit against local governments in the event ordinances or policies are enacted or enforced.
- If the plaintiff against the local government prevails in the suit, the local government would be liable for payment of all court costs, reasonable attorney's fees, as well as the greater of either actual damages or liquidated damages of three times the plaintiff's attorney's fees.
- Due to multiple unknown variables, such as how many local governments will opt to enact or enforce such an ordinance or policy after July 1, 2017, how many impacted persons or membership organizations will bring suit as plaintiffs; how many plaintiffs will prevail in such suits, the extent of any relief rewarded to the prevailing plaintiff, a precise permissive increase in local government expenditures cannot be determined but is reasonably estimated to exceed \$100,000 per suit.
- Local governments will be deterred from enacting or enforcing such ordinances once a local government is sued; therefore, the permissive increase to local government expenditures is considered to be a one-time increase.
- Local government entities are not required to enact or enforce any such ordinances or policies; therefore, any increase in local government expenditures is considered permissive.

Assumptions related to restriction of firearms in state and local buildings:

- Persons legally possessing firearms would be authorized to carry such firearms in all state and local government buildings, unless metal detectors, at least one law enforcement officer, and a bag inspection station are installed at every public entrance to the property.
- Pursuant to Tenn. Code Ann. § 39-11-106 (a)(11), as used in Title 39 unless context requires otherwise, "firearm" means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use.
- All state and local government facilities do not currently maintain metal detectors, trained security officers, and bag inspection stations at every public entrance.
- If these state and local entities elected to install all items necessary prior to prohibition or restriction of any firearms, there would be an increase in state and local government expenditures; however, the provisions of the bill do not require state or local governments to prohibit or restrict firearms and as such, do not require the installation of metal detectors, trained security officers, and bag inspection stations; any such actions would be considered permissive actions.
- Based on information provided by the Department of Children's Services (DCS), the presence of firearms could jeopardize the plan for establishing and maintaining standards for foster homes and child care institutions and could subject the state to the loss of federal Title IV funds. DCS reports that the Department receives approximately \$135,627,100 in Title IV federal funding.
- The Department of Education (DOE) reports that provisions of the bill could put the state out of compliance with federal guidelines regarding guns on school campuses resulting in the loss of certain federal funding.

- DOE receives approximately \$300,552,691 in annual federal funding. The precise amount of federal funding jeopardized would be dependent on federal ruling and cannot be reasonably determined.
- If DCS is found to be out of compliance with federal guidelines for receiving Title IV funding, or DOE is found to be out of compliance with federal guidelines regarding guns on school campuses, or any other state department is found out of compliance with federal law, and federal funding is subsequently withheld from such departments, the impacted departments may elect to install metal detectors, employ armed security guards, and have bag checks at each entrance to ensure continuance of receipt of such federal funding. To the extent this occurs, the one-time increase in state expenditures for acquiring the metal detectors in state facilities is reasonably estimated to exceed \$100,000, and the recurring increase in state expenditures for employing trained security officers is reasonably estimated to exceed \$1,000,000 statewide. Bag checks are assumed to be conducted by the employed security officers at no significant additional cost.
- To the extent local government entities elect to purchase additional metal detectors, employ armed security guards, and conduct bag checks as a direct result of this bill, the permissive one-time increase in local expenditures for metal detectors is reasonably estimated to exceed \$100,000 statewide; and the permissive recurring increase in local expenditures for employing armed security guards is reasonably estimated to exceed \$1,000,000 statewide.
- The provisions of the bill are not expected to significantly impact handgun carry permit applications or revenue.

Total Local Impact Assumption:

- The total permissive one-time increase in local expenditures is estimated to exceed \$200,000 (\$100,000 + \$100,000).
- The permissive recurring increase in local expenditures is estimated to exceed \$1,000,000.

CERTIFICATION:

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



Krista M. Lee, Executive Director

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