

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 445 – HB 508

May 2, 2017

**SUMMARY OF ORIGINAL 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.

FISCAL IMPACT OF ORIGINAL BILL:

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.

**SUMMARY OF AMENDMENTS (007865, 008307):** Amendment 007865 deletes and rewrites the bill such that the substantive changes are to: (1) remove applicability from state government and certain types of facilities, (2) restrict the applicability to handguns carried by handgun carry permit holders, and (3) to authorize local governments to restrict handguns from being carried in parks if certain conditions are met.

Amendment 008307 adds the state to the list of entities which are potentially liable for damages by certain persons and organizations for enactment or enforcement of any ordinance or policy,

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after July 1, 2017, that adversely affects the person or organization's membership as a lawful gun owner.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Increase State Expenditures – Exceeds \$100,000/Per Suit**

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

Assumptions for the bill as amended:


- The proposed language removes immunity from suit for the state and 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 the state and local governments in the event ordinances or policies are enacted or enforced.
- If the plaintiff against the state or local government prevails in the suit, the state or local government would be liable for payment of all court costs, reasonable attorney 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 policies will be enacted or enforced by the state after July 1, 2017, 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 plaintiffs, a precise impact to state and local government is difficult to determine. However, the increase in state expenditures is reasonably estimated to exceed \$100,000 per suit and the permissive increase in local expenditures 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.
- Handgun carry permit holders lawfully possessing handguns would be authorized to carry such handguns in certain 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.
- Under the amendatory language, local governments could prohibit handguns within certain parks, pursuant to Tenn. Code Ann. §39-17-1359(f), if metal detectors, at least

one law enforcement officer, and a bag inspection station is installed at the public entrance to the park.

- The provisions of the bill as amended would permit the prohibition of handguns by local governments at all facilities licensed pursuant to Tenn. Code Ann. Title 33, Title 37, and Title 68, inside a room where judicial proceedings have or will occur, on school property, public parks under certain circumstances contained in Tenn. Code Ann. § 39-17-1311(b)(1)(H)(ii), at law enforcement agencies as defined pursuant to Tenn. Code Ann. § 39-13-519, libraries, and facilities licensed by the Department of Human Services which administer a Head Start program. As a result, federal funding to the Departments of Education and Children Services will not be jeopardized.
- All local government facilities do not currently maintain metal detectors, trained security officers, and bag inspection stations at every public entrance.
- If these local entities elected to install all items necessary prior to prohibition or restriction of any firearms, there would be an increase in local government expenditures; however, the provisions of the bill as amended do not require 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.
- 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 as amended, 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 total increase in state expenditures for litigation is estimated to exceed \$100,000 per case.
- 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.
- The provisions of the bill as amended are not expected to significantly impact handgun carry permit applications or revenue.

## **CERTIFICATION:**

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



Krista M. Lee, Executive Director

/jrh