

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1975 – SB 2212

March 29, 2018

SUMMARY OF ORIGINAL BILL: Deletes statute requiring the Office of Small Business Advocate to report on the status of a project, no later than February 15, 2013.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (014752): Deletes all language after the enacting clause. Creates the Nonprofit Fair Asset Protection Act (the Act). This Act prohibits a national nonprofit that has received a charter under 36 U.S.C. Subt. II, Pt. B, from: (a) terminating, revoking, suspending, or failing to renew a license or charter affiliating a Tennessee nonprofit corporation with the national nonprofit corporation absent good cause; (b) discriminating against a licensed or charter affiliated Tennessee nonprofit corporation by imposing requirements not imposed on other similarly situated affiliates of the national nonprofit corporation; or (c) acting indirectly to accomplish what would otherwise be prohibited under this Act.

Defines “good cause” as to exclude any refusal or failure by the Tennessee nonprofit corporation to make purchases of or to contract to make purchases of goods or services where the board of directors of the Tennessee nonprofit corporation determines, according to the standards set forth in Tenn. Code Ann. § 48-58-301, that making a purchase or contracting to make a purchase is not in the best interest of the Tennessee nonprofit corporation or is commercially unreasonable. Establishes that it is the intent of the General Assembly that Tennessee nonprofit corporations be protected from risk of loss of their licenses or charters from national nonprofit corporations for reasons that are not based on good cause.

Establishes that any condition, stipulation, provision, or term of any agreement that is in conflict with this Act or that would purport to waive or restrict the application of this Act is void and

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unenforceable. Establishes that all ordinances, resolutions, rules, or requirements, of any type, that are in conflict with this Act are void and unenforceable. Establishes that nothing in this Act abrogates or amends the standards for directors set forth in Tenn. Code Ann. § 48-58-301.

Authorizes any Tennessee nonprofit corporation that is injured by a violation of this Act to bring a private right of action for injunctive relief and to recover costs and reasonable attorneys' fees if the nonprofit corporation is the prevailing party in the action.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- This Act will essentially prevent any attempt of a national nonprofit to terminate the license or charter of a Tennessee chapter of the nonprofit, due to the Tennessee chapter's refusal to purchase or enter into contract for goods or services, if such purchase or contractual agreement is not in the best interest or general purpose of the Tennessee nonprofit organization.
- Any violation suffered by a Tennessee chapter of a national nonprofit under this Act authorizes such Tennessee chapter to a private right of action.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumption for the bill as amended:

- This Act may result in preventing the termination of the license or charter of a Tennessee nonprofit organization; however, to the extent known, this legislation is estimated to have no significant impact on commerce or jobs in this state.

CERTIFICATION:

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



Krista M. Lee, Executive Director

/jdb