

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 361 – HB 954

March 5, 2021

SUMMARY OF BILL: Requires a state agency to bear the burden of proof in determining, by a preponderance of evidence, whether a state law, rule, or policy was violated, in an appeal proceeding against the suspension, termination, or disciplining of an employee.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – In the event state agencies require additional time and resources to address employee misconduct and performance, this legislation may result in an increase in state expenditures. Such increase is dependent on multiple unknown factors and cannot be reasonably determined.

Assumptions:

- Currently, a notice of disciplinary action is provided to an employee and provides reasons which led to the action.
- A preferred service employee may appeal such action.
- In the Tennessee Supreme Court Decision No. M2015-00902-SC-R11-CV, filed September 14, 2017, the Court opined that preferred service employees do not possess a protected property interest in their employment with the State and that the employee bears the ultimate burden of proof.
- This legislation will require a state agency to bear the burden of proof that such employee did, by a preponderance of the evidence, commit the disciplinary offense.
- This legislation may result in a lengthier appeal process in order for the state to prove, by an evidentiary standard, that the employee committed an offense for which discipline, suspension, or termination are valid.
- Based on information provided by the Department of Human Resources, this legislation may lead to an increase in state expenditures for the additional time and resources required by state agencies.
- Any increase in state expenditures, if any, is dependent on multiple unknown factors and cannot be reasonably determined.

CERTIFICATION:

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

A handwritten signature in black ink that reads "Bojan Savic". The signature is written in a cursive style with a large, prominent 'B' and 'S'.

Bojan Savic, Interim Executive Director

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