

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1574 – SB 2520

April 16, 2018

SUMMARY OF ORIGINAL BILL: Removes certain memorials from applicability to the Tennessee Heritage Protection Act (THPA).

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (012101, 016250, 017324): Amendment 012101 adds language to the original bill which would (1) establish a complaint process for entities, groups, and interested parties to allege violations of the THPA by public entities; (2) authorize a local government to petition the Tennessee Historical Commission (THC) for a waiver of the prohibition of selling, transferring, or disposing of any memorial or public property on which a memorial is located prior to initiating such a transaction; (3) authorize any interested entity, group, or individual to intervene in a petition for waiver by filing written notice with the THC at least 45 days prior to the final hearing on a waiver; (4) establish that any entity, group, or interested party who has filed written notice of interest in petition for waiver is a party in all proceedings on the petition for waiver and must receive copies of all filings and may present relevant testimony and evidence at any hearing on the petition; (5) provide that certain entities, groups, and individuals have standing to seek injunctive or other relief in the Davidson County Chancery Court to enforce the THPA; (6) prohibit a public entity in violation of the THPA from receiving grants from the Department of Economic and Community Development (ECD) for a period of five years after the violation; and (7) authorize a historic organization to petition the THC to transfer ownership of or relocate memorials owned by public entities to the control of the historic organization, upon consent of the owning public entity.

Amendment 016250 adds language to place the THPA under the governance of the Uniform Administrative Procedures Act (UAPA).

Amendment 017324 (1) deletes and rewrites language within Amendment 012101 to prohibit a public entity in violation of the THPA from entering into grant contracts with ECD for a period of five years after the violation, and (2) adds historical markers to the definition of “memorial” as used under the governance of the THPA.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

**Increase State Expenditures – \$7,000/One-Time
\$55,600/Recurring**

Other Fiscal Impact – The extent of any decrease in local government revenue from having Economic and Community Development (ECD) grants withheld for five years upon a violation of the Tennessee Heritage Protection Act is estimated to range from \$5,000 to \$5,500,000 per ECD grant. However, any change in total statewide grant funding will be not significant.

The extent of any secondary economic impacts to respective local governments as a result of withheld grant funding cannot reasonably be determined.

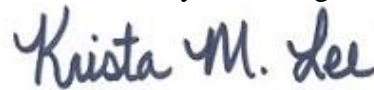
Assumptions for the bill as amended:

- The proposed language would exempt memorials under the control of an accredited museum, public library, and public archive when housed within the museum, library, or archive, or when exhibited on public property as part of an exhibition, display, or loan.
- Exemption from THPA will authorize accredited museums, public libraries, and public archives to relocate memorials within their possession for exhibitions and displays without receiving a waiver from the Tennessee Historical Commission, pursuant to Tenn. Code Ann. § 4-1-412(b)(1).
- Exempting such memorials from applicability of the THPA will not result in any significant fiscal impact to state or local government.
- The proposed language establishes multiple new administrative requirements on the THC relative to complaints, parties to a petition for waiver, new petitions for waiver, and petitions of transfer of ownership.
- The THC will require an additional staff person to assist in the administrative functions prescribed within the proposed language.
- The one-time increase in state expenditures associated with purchase of office furniture and computer needs is estimated to be \$7,000.
- The recurring increase in state expenditures for salary, benefits, and supplies associated with hiring additional staff is estimated to be \$53,767 (\$38,460 salary + \$13,307 benefits + \$2,000 supplies).
- The newly developed complaint process is estimated to result in at least one additional meeting annually of the THC.
- Pursuant to Tenn. Code Ann. § 4-11-102(e), all members of the commission may be paid necessary expenses while engaged in the work of the commission.
- Based on information provided by the Tennessee Department of Environment and Conservation, reimbursement to THC members averages \$1,800 per meeting.
- The proposed language will result in a recurring increase in state expenditures estimated to be \$1,800.

- The total recurring increase in state expenditures is estimated to be \$55,567 (\$53,767 additional staff + \$1,800 additional reimbursement).
- The extent of any increase in local government expenditures associated with additional relief which may be awarded to aggrieved parties by the Davidson County Chancery Court cannot reasonably be determined, but is reasonably estimated to be not significant.
- Any public entity found in violation of the THPA will have future ECD grants withheld for a period of five years.
- ECD provides grants to public entities for a variety of uses, in varying amounts made over a period of time, with some public entities receiving several grants during overlapping years. For instance, grants range from \$5,050 allocated to Robertson County for tourism development beginning in FY16-17, to \$5,500,000 allocated to Hamilton County for FastTrack Economic Development beginning in FY15-16.
- Due to multiple unknown factors such as the extent of any public entities who will be found in violation of a provision of the THPA and the extent of any ECD grants received by any public entity over the course of five years, a precise decrease in local government revenue cannot be determined, however is reasonably estimated to range between \$5,000 and \$5,500,000 per ECD grant withheld.
- The extent of any secondary economic impacts to local government which may occur as a result of withheld ECD grants cannot reasonably be determined.
- Any net impact on total statewide grants awarded by ECD is estimated to be not significant.
- Placing the THPA under the governance of the UAPA will not result in any significant fiscal impact to state government.
- Expanding the applicability of the THPA to historical markers will not result in any significant fiscal impact to state government.

CERTIFICATION:

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



Krista M. Lee, Executive Director

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