

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1661 - SB 2173

February 27, 2024

**SUMMARY OF BILL AS AMENDED (013955):** Enacts the *Restricted Access by Minors to Obscene Library Materials Act* (Act), which authorizes residents of a judicial district to submit a petition containing signatures of at least five percent of the total number of legal voters who voted in the last gubernatorial election in that district to each county election commission within the district for the purpose of prohibiting each library in the district from displaying, distributing, or making readily accessible to minors any content that does not meet contemporary community standards. Requires the filer or a proponent of the petition to provide the library with written notice of the intent to file the petition at least 30 days before filing.

Requires the proponents of a petition to remit a fee of \$1,200 to each county election commission where the petition is filed to be held in escrow until the petition is validated and any dispute resolution process has concluded, and directs the fee to be returned to the proponents of the petition if it is validated. Establishes that if a library is a party to a dispute regarding the validity of a petition, and the dispute is resolved in favor of the filers, then the library shall remit a fee of \$1,200 to each county election commission where the petition was filed.

Requires the recipient commissions to validate the petition upon receipt and, upon such validation, provide notice and the portion of the petition not containing signatures to each library within the commission's jurisdiction. Prohibits each recipient library, upon receipt of a petition, from displaying, distributing, or making readily accessible to minors any content that does not meet contemporary community standards.

Requires the Secretary of State (SOS) to promulgate rules for the policies and procedures regarding petitioning and the possible appeal and enforcement of such petition, and to post on its website valid petitions. Prohibits a division of public libraries and archives, library boards, or governing entities of a libraries from barring, reversing, or modifying a valid petition.

**FISCAL IMPACT OF BILL AS AMENDED:**

**Other Fiscal Impact – It is estimated that each petition will result in a mandatory increase in local expenditures of \$1,125. However, the total increase in local expenditures and any offsetting revenue cannot be reasonably estimated due to the unknown number of petitions that will be submitted and validated.\***

Assumptions for the bill as amended:

- Within the context of the proposed legislation, contemporary community standards mean the prevailing standards in the adult community as to content or material that is not suitable to minors due to it being harmful, depicting excess violence, depicting nudity, being obscene, being patently offensive, being of a prurient interest, depicting sadomasochistic abuse, containing sexual conduct, or depicting sexual excitement.
- Pursuant to the proposed legislation, display is defined as the positioning or making available for unsupervised viewing by a minor, whether in person or electronically.
- In the context of the proposed legislation, library means: a library within the state library system; a library owned or operated, in part or whole, by local government or chartered, authorized, or housed in a government-owned facility or vehicle; a library at a public school of higher education; and a library governed by a local education agency, charter or magnet school.
- The SOS will have the ability to create a petition, post valid petitions on its website, establish procedures and timelines for county election commissions, and accept reports of completed actions by libraries, by utilizing existing resources and without a significant increase in expenditures.
- Any escrow fees that are subsequently turned over to the county election commission upon finding a petition is not valid, and any fee paid to county election commissions by libraries that do not succeed in disputing a petition, cannot be reasonably estimated due to the unknown actions of individuals and entities involved in the petition process.
- Pursuant to the proposed legislation, resident's signatures found on petitions will need to be verified, which is expected to increase the workload of local election commissions by 75 hours per petition filed, which will result in an estimated mandatory increase of \$1,125 in local expenditures per petition per county. However, the actual number of submitted and accepted petitions cannot be reasonably estimated, and may vary depending on several unknown factors.
- The local election commission will collect revenue of \$1,200 per petition from filers, which may be retained if a petition is deemed invalid, or from libraries if they are a party to such dispute and the dispute is resolved in favor of the petitioner. The precise increase in revenue to offset such expenditures cannot be reasonably determined.
- Any potential increase in the caseloads of courts as a result of the proposed legislation is assumed to be nonsignificant and can be absorbed within existing judicial resources.
- The proposed legislation would not directly impact the Department of Education (DOE) since Tennessee State Special Schools are not local education agencies.
- Libraries, including local education agencies as defined in the proposed legislation, will be able to comply with valid petitions by utilizing existing resources.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

**CERTIFICATION:**

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

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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