

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1661 – SB 2173

February 3, 2024

SUMMARY OF BILL: 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 two 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 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 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:

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 cannot be reasonably estimated due to the unknown number of petitions that will be submitted and validated.*

Assumptions:

- 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.
- 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.
- 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.



Krista Lee Carsner, Executive Director

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