TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2553 - SB 2639

February 27, 2024

SUMMARY OF BILL: Prohibits a prohibited foreign party (PFP) from acquiring or holding, by grant, purchase, devise, descent, or otherwise, any interest in agricultural land in this state, regardless of whether it intends to use such land for nonfarming purposes, unless the PFP meets the definition of a resident alien. Requires that any such party must divest itself of any agriculture land within two years from no longer being a resident alien. Further prohibits any prohibited foreign-party-controlled business (PFPCB) from acquiring, by grant, purchase, devise, descent, or otherwise, any interest in public or private land in this state or a party holding public or private land as an agent, trustee, or other fiduciary for a prohibited PFPCB. Any prohibited PFPCB found in violation of this act must divest itself of any public or private land within two years of the date the entity is found to be in violation.

Requires the Attorney General and Reporter (AG) to take legal action in the appropriate circuit court, should divestures not occur. If the agricultural, public or private land is held in violation of this act, the respective court is required to sell such land through judicial foreclosure. Establishes that any violation of this prohibition is a Class A misdemeanor offense and the court must sell such land through judicial foreclosure.

Creates the Office of Agricultural Intelligence (OAI) within the Department of Agriculture (DOA), to collect and analyze information concerning the unlawful sale or possession of agricultural land by PFPs and PFPCBs and administer and enforce this act, including the reporting of any violation of such to the AG. Authorizes the Commissioner of the DOA to designate employees with the powers of peace officers or institutional law enforcement officers. The OAI is subject to examination and audit by the Comptroller of the Treasury (COT) and any such audit may be conducted as part of the performance audit of the DOA.

For purposes of promulgating rules, this act takes effect upon becoming law. For all other purposes, this act takes effect December 1, 2024

FISCAL IMPACT:

Increase State Revenue –
$82,000/FY24-25/General Fund
$2,000/FY25-26 and Subsequent Years/General Fund

Decrease State Expenditures –
$82,000/FY24-25/Secretary of State
$2,000/FY25-26 and Subsequent Years/Secretary of State

Other Fiscal Impact – This legislation could effectively deter the investments of PFPs and PFPCBs in real estate within this state. Any subsequent fiscal impacts upon state or local tax revenue that would have occurred in the absence of this legislation are dependent upon multiple unknown factors and cannot be determined with reasonable certainty.

Assumptions:

- This legislation removes the majority of the statute that was enacted by Public Chapter 369 of 2023 (PC 369), effective July 1, 2023, which prohibited any acquisition of real property after such date by any nonresidential alien, sanctioned foreign business, sanctioned foreign governments, or their agents, trustees, or fiduciaries.
- The fiscal memorandum attached to PC 369 estimated a one-time increase in state expenditures of $80,000 in FY23-24 for building a reporting system within the Secretary of State's Office (SOS) and a recurring increase in state expenditures of $2,000 in FY25-26 and subsequent years for maintenance of such system.
- Based on information provided by the SOS, these expenditures were never incurred, and if the proposed legislation were to pass, all such funds would then revert to the General Fund.
- There will be total decrease in state expenditures to the SOS in FY24-25 of $82,000 ($80,000 + $2,000).
- There will be a recurring decrease in state expenditures to the SOS in FY25-26 and subsequent years of $2,000.
- There will be total increase in state revenue to the General Fund in FY24-25 of $82,000 ($80,000 + $2,000).
- There will be a recurring increase in state revenue to the General Fund in FY25-26 and subsequent years of $2,000.
- This legislation will add similar prohibitions to those created under PC 369, reduce the fine for similar violations, from $2,000 to $1,500, but makes such violations Class A misdemeanor offenses, which may be punishable by up to 11 months and 29 days of confinement, in addition to any such fine.
- Based on information provided by the SOS, since PC 369's enactment, no situations have been encountered that would necessitate any imposition of a civil penalty.
- Furthermore, it is assumed that this legislation will likewise result in no violations, nor fine revenue, nor increases in Class A misdemeanor offenses resulting in any increase in state or local expenditures for incarceration, nor any required judicial foreclosures.
- According to a 2022 American Farm Bureau Federation report, *Foreign Investment in U.S. Ag Land – The Latest Numbers*, the only investors from the proposed prohibited nations that own agricultural land in Tennessee are Iranian and Venezuelan.
- The actual Tennessee acreage owned by these entities is modest. It is assumed that such entities will divest their land within two years to avoid any penalties.
- This legislation could effectively deter the investments of PFPs and PFPCBs in real estate within this state. Any subsequent fiscal impact upon state or local tax revenue,

that would have occurred in the absence of this legislation, is based upon multiple unknown factors, and cannot be determined with reasonable certainty.

- Based on information provided by the DOA, any additional required duties, including the establishment of the OAI, resulting from this legislation, can be performed utilizing existing resources.
- The AG can handle any increase in cases resulting from this legislation, utilizing existing resources.
- The COT can audit any additional work performed by the OAI in its regularly-scheduled audit of the DOA, utilizing existing resources.

IMPACT TO COMMERCE:

Forgone Business Revenue - $82,000/FY24-25
$2,000/FY25-26 and Subsequent Years

This legislation could effectively deter the investments of PFPs and PFPCBs in real estate within this state. Any subsequent impacts upon jobs or commerce, which would have occurred in the absence of this legislation, are dependent upon multiple unknown factors and cannot be determined with reasonable certainty.

Assumptions:

- It is not known how many pending or future private land agreements may be disrupted by the proposed restrictions. However, it is assumed that the individuals and businesses potentially impacted by such prohibitions will be able to secure other such agreements on the open market with entities that are not prohibited.
- The SOS never contracted with an outside contractor for the production or maintenance of a reporting system pursuant to PC 369.
- Therefore, the forgone business revenue will be $82,000 in FY24-25 and $2,000 in FY25- 26 and subsequent years.
- This legislation could effectively deter the investments of PFPs and PFPCBs in real estate within this state. Any subsequent impacts upon jobs or commerce, in general, which would have occurred in the absence of this legislation is dependent upon multiple unknown factors and cannot be determined with reasonable certainty.

CERTIFICATION:

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

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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