**TENNESSEE GENERAL ASSEMBLY**
**FISCAL REVIEW COMMITTEE**

# FISCAL MEMORANDUM

## HB 1063 - SB 1053

April 9, 2019

**SUMMARY OF ORIGINAL BILL:** Establishes the *Main Street Historic Tourism and Revitalization Act* (Act). Establishes that any person who incurs costs and expenses for the rehabilitation of a certified historic structure, may take a tax credit against any state tax liability, defined as liability incurred by any person for the following taxes: premium tax, retaliatory tax, income tax, property tax, business taxes, franchise and excise tax, and any other premium tax, retaliatory tax, income tax, or property tax imposed by this state under any other law. Such tax credit shall be equal to the applicable percentage, equal to the following:

- For any certified historic structure located in Davidson or Williamson county, ten percent (10%);
- For any certified historic structure located in Hamilton, Knox, or Shelby county, twenty percent (20%);
- For any certified historic structure located in a county not included in subdivision (1)(A) or (1)(B), thirty percent (30%); and
- For any certified historic structure that is located in a "specially designated area," that does not also serve as the county seat of a county included in the first two bullet points, the applicable percentage shall be increased by five percent (5%).

Defines "specialty designated area" as Tennessee main street community or a Tennessee downtown community as defined by the Department of Economic and Community Development (ECD), a certified local government approved by the National Park Service that does not also serve as the county seat of a county described in the third bullet point above, or a Music Row cultural industry district.

Limits the amount of credits that may be awarded via this legislation to $4,000,000 per certified structure per annum, provided: the rehabilitation meets the United Secretary of the Interior's Standards for Rehabilitation, as certified by the Tennessee Historical Commission (Commission), the certified structure is placed in service by January 1, 2020, the total amount of qualified rehabilitation expenditures associated with the certified historic structure exceeds 50 percent (50%) of the adjusted basis of such structure and its structural components. The amount of credits awarded to applicable structures cannot exceed $40,000,000 in aggregate per fiscal year. Requires that 50 percent (50%) of the $40,000,000 aggregate amount be reserved for awards to projects identified in the third bullet point above; however, if the Commission has not approved applications for such amount on or before April 1 of each fiscal year, any remaining credits may be used for any certified historic structure, regardless of its location.

The entire tax credit shall be earned in the year in which the certified structure, or portion of the structure, is placed into service. If the total credit earned exceeds the total tax liability for the year the property is placed in service, the amount which exceeds such liability may be carried forward for the next five years, or until the credit is used, whichever occurs first. Authorizes the sale, transfer, or assignment of credits to other individuals, and furthermore, such transferees may also sell, transfer, or assign such credits.

Requires the Commission to promulgate rules within 180 days of the effective date of this Act, and authorizes the Commission to adopt a fee of no more than $1,000 for applications and certifications. Further authorizes the Commission to charge an issuance fee in an amount of up two percent of the amount of tax credits issued. One-half of the amounts collected by the Commission from the issuance fee shall be remitted to ECD.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – $64,900/FY19-20 and Subsequent Years/
Historical Commission

Decrease State Revenue – $13,596,700/FY19-20/General Fund
$27,193,400/FY20-21 and Subsequent Years/
General Fund

Increase State Expenditures – $64,900/FY19-20 and Subsequent Years/
Historical Commission

Decrease Local Revenue - $927,200/FY19-20
$1,854,400/FY20-21 and Subsequent Years

Other Fiscal Impact – Secondary economic impacts may occur as a result of this bill. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Decrease Business Expenditures – $14,459,000/FY19-20
$28,982,900/FY20-21 and Subsequent Years

**SUMMARY OF AMENDMENT (006411):** Adds, deletes, and replaces language in the original bill such that substantive changes include:

- Removes property taxes from the types of tax liability to which the tax credit may apply;
- Stipulates that this legislation only applies to qualified rehabilitation expenses incurred after July 1, 2019;

- Stipulates that such tax credits may only be used against any tax liability due on or after July 1, 2021, or in FY21-22 and subsequent years;
- Removes the $40,000,000 aggregate maximum credits that may be awarded to taxpayers. Establishes the following new maximum aggregate amounts of $21,000,000 for FY21-22, $30,000,000 in FY22-23, and $36,000,000 in FY23-24 and subsequent years;
- Establishes that the Commission must promulgate rules by July 1, 2020, rather than within 180 days of the effective date of this Act.

## FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Revenue – $64,900/FY19-20 and Subsequent Years/<br>Historical Commission**

**Decrease State Revenue – $19,659,400/FY21-22/General Fund<br>$28,084,800/FY22-23/General Fund<br>$33,701,800/FY23-24 and Subsequent Years/<br>General Fund**

**Increase State Expenditures – $64,900/FY19-20 and Subsequent Years/<br>Historical Commission**

**Decrease Local Revenue - $1,340,600/FY21-22<br>$1,915,200/FY22-23<br>$2,298,200/FY23-24 and Subsequent Years**

**Other Fiscal Impact – Secondary economic impacts may occur as a result of this bill. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.**

Assumptions for the bill as amended:

- The first year in which tax credits will be awarded will be FY21-22.
- Based on information provided by the U.S. Department of the Interior, National Park Service, Technical Preservation Services in the annual statistical reports, the average total rehabilitation expenditures in Tennessee that qualified for the federal historic rehabilitation tax credit was estimated to be $2,737,927 for FY15-16, $34,249,316 for FY16-17, and $311,586,486 in FY17-18, or an average of $116,191,243.
- Due to the unknown applicable percentage that will be associated with qualified rehabilitation expenditures incurred on certified historic structures, an average percentage of 25 percent is assumed.
- The annual rehabilitation expenditures that would qualify for the tax credit, as established by this legislation, are estimated to be $29,047,811 in FY19-20 and subsequent years ($116,191,243 x 25%).

- Due to the provisions of amendment 006411, taxpayers will incur qualified rehabilitation expenditures and earn the credits against future tax liability in FY19-20 and FY20-21; however, such taxpayers will be unable to use such credits until FY21-22 and subsequent fiscal years.
- Taxpayers will earn approximately $87,143,433 in tax credits by the end of FY21-22 ($29,047,811 x 3 fiscal years).
- Amendment 006411 stipulates the following aggregate maximum credits that may be used against tax liabilities held by all taxpayers:
    - FY21-22: $21,000,000;
    - FY22-23: $30,000,000;
    - FY23-24 and subsequent years: $36,000,000.
- Due to abundance of credits, taxpayers will claim the maximum amount of credits for the foreseeable future.
- The tax credits may be used against the following tax liabilities: premium tax, retaliatory tax, income tax, business taxes, franchise and excise tax, and any other premium tax, retaliatory tax, or income tax, imposed by this state under any other law.
- The tax liabilities of taxpayers which will use this credit are unknown.
- It is assumed that this credit will be used primarily against tax liabilities arising from the levy of the franchise and excise tax, business tax, and income tax.
- It is assumed that credits awarded pursuant to this legislation will be used in proportion to the amount of tax revenue received for each category of tax to which the credit may be applied.
- The following are the FY17-18 tax collections for the taxes affected by this legislation, less property tax:
    - Franchise and Excise Tax: $2,547,666,308;
    - Business Tax: $187,927,516; and
    - Income Tax: $246,256,642.
- The sum of all revenue collected from such taxes in FY17-18 totaled $2,981,850,466 ($2,547,666,308 + $187,927,516 + $246,256,642).
- Percentage of each tax as portion of the total:
    - Franchise and Excise Tax: 85.44 percent ($2,547,666,308 / $2,981,850,466);
    - Business Tax: 6.30 percent ($187,927,516 / $2,981,850,466); and
    - Income Tax: 8.26 percent ($246,256,642 / $2,981,850,466).

*Impact to State and Local Revenue – FY21-22*

- Total credits against FY21-22 tax liability of $21,000,000.
- A decrease in franchise and excise tax collections in FY21-22 of $17,942,400 ($21,000,000 x 85.44%).
- All franchise and excise tax collections are allocated to the General Fund.
- A decrease in state revenue to the General Fund in FY21-22 of $17,942,400.
- A decrease in business tax collections of $1,323,000 ($21,000,000 x 6.30%).
- Based on historical collections, 43.98 percent of business tax collections are allocated to the General Fund and 56.02 percent is allocated to local governments.
- A decrease in state revenue to the General Fund in FY21-22 of $581,855 ($1,323,000 x 43.98%).

- A decrease in local revenue in FY21-22 of $741,145 ($1,323,000 x 56.02%).
- A decrease in in state income tax collections in FY21-22 of $1,734,600 ($21,000,000 x 8.26%).
- Based on apportionments of HIT collections for fiscal years FY13-14, through FY15-16, it is estimated that the state retains 65.44 percent of HIT revenue and local governments are apportioned 34.56 percent.
- A decrease in state revenue to the General Fund in FY21-22 of $1,135,122 ($1,734,600 x 65.44%).
- A decrease in local revenue in FY21-22 of $599,478 ($1,734,600 x 34.56%).
- The total decrease in state revenue to the General Fund in FY21-22 is estimated to be $19,659,377 ($17,942,400 + $581,855 + $1,135,122).
- The total decrease in local revenue in FY21-22 is estimated to be $1,340,623 ($741,145 + $599,478).

*Impact to State and Local Revenue – FY22-23*

- Total credits against FY22-23 tax liability of $30,000,000.
- A decrease in franchise and excise tax collections in FY22-23 of $25,632,000 ($30,000,000 x 85.44%).
- All franchise and excise tax collections are allocated to the General Fund.
- A decrease in state revenue to the General Fund in FY22-23 of $25,632,000.
- A decrease in business tax collections of $1,890,000 ($30,000,000 x 6.30%).
- Based on historical collections, 43.98 percent of business tax collections are allocated to the General Fund and 56.02 percent is allocated to local governments.
- A decrease in state revenue to the General Fund in FY22-23 of $831,222 ($1,890,000 x 43.98%).
- A decrease in local revenue in FY22-23 of $1,058,778 ($1,890,000 x 56.02%).
- A decrease in in state income tax collections in FY22-23 of $2,478,000 ($30,000,000 x 8.26%).
- Based on apportionments of HIT collections for fiscal years FY13-14, through FY15-16, it is estimated that the state retains 65.44 percent of HIT revenue and local governments are apportioned 34.56 percent.
- A decrease in state revenue to the General Fund in FY22-23 of $1,621,603 ($2,478,000 x 65.44%).
- A decrease in local revenue in FY22-23 of $856,397 ($2,478,000 x 34.56%).
- The total decrease in state revenue to the General Fund in FY22-23 is estimated to be $28,084,825 ($25,632,000 + $831,222 + $1,621,603).
- The total decrease in local revenue in FY22-23 is estimated to be $1,915,175 ($1,058,778 + $856,397).

*Impact to State and Local Revenue – FY23-24 and Subsequent Years*

- Total credits against tax liability in FY23-24 and subsequent years of $36,000,000.
- A decrease in franchise and excise tax collections in FY23-24 and subsequent years of $30,758,400 ($36,000,000 x 85.44%).
- All franchise and excise tax collections are allocated to the General Fund.

- A decrease in state revenue to the General Fund in FY23-24 and subsequent years of $30,758,400.
- A decrease in business tax collections of $2,268,000 ($36,000,000 x 6.30%).
- Based on historical collections, 43.98 percent of business tax collections are allocated to the General Fund and 56.02 percent is allocated to local governments.
- A decrease in state revenue to the General Fund in FY23-24 and subsequent years of $997,466 ($2,268,000 x 43.98%).
- A decrease in local revenue in FY23-24 and subsequent years of $1,270,534 ($2,268,000 x 56.02%).
- A decrease in in state income tax collections in FY23-24 and subsequent years of $2,973,600 ($36,000,000 x 8.26%).
- Based on apportionments of HIT collections for fiscal years FY13-14, through FY15-16, it is estimated that the state retains 65.44 percent of HIT revenue and local governments are apportioned 34.56 percent.
- A decrease in state revenue to the General Fund in FY23-24 and subsequent years of $1,945,924 ($2,973,600 x 65.44%).
- A decrease in local revenue in FY23-24 and subsequent years of $1,027,676 ($2,973,600 x 34.56%).
- The total decrease in state revenue to the General Fund in FY23-24 and subsequent years is estimated to be $33,701,790 ($30,758,400 + 997,466 + $1,945,924).
- The total decrease in local revenue in FY23-24 and subsequent years is estimated to be $2,298,210 ($1,270,534 + $1,027,676).

*Impact to the Tennessee Historical Commission and Secondary Economic Impacts*

- Based on information provided by the Tennessee Historical Commission, the Commission will require one additional position to administer the proposed program. This employee will: review documents to determine if they are fully completed, accurate and compliant with the established standards; work closely with the Commission's federal tax credit reviewer in order to ensure that projects using both the state and federal tax credit programs are in agreement; review plans and specifications; work with architects and property owners; make site visits; attend meetings; speak at public events about the program; and respond to inquiries from the public and other stakeholders.
- The position will be needed beginning July 1, 2019.
- The recurring increase in the Commission's expenditures associated with this position, beginning in FY19-20, is estimated to be $64,860 ($38,460 salary + $12,950 benefits + $13,450 travel, supplies and materials, and other).
- The Commission will set application and certification fees to offset the cost of administering the program. The recurring increase in the Commission's fee revenue, beginning in FY19-20, is estimated to be $64,860.
- Any impact on revenue as a result of additional projects that will be undertaken only as a direct result of this legislation that would not be completed under current law would be considered forgone revenue. Due to multiple unknown factors, the extent of forgone revenue cannot be quantified with reasonable certainty.
- Secondary economic impacts may occur as a result of this legislation. Such impacts may be reflected as additional private capital investment leveraged by the proposed state tax

credits, additional jobs created as a result of rehabilitation efforts that would be undertaken as a direct result of this legislation, additional commercial activity at restored historical properties, and increased property values at and around the restored properties. However, due to multiple unknown factors, fiscal impacts directly attributable to such secondary economic impacts cannot be quantified with reasonable certainty.

## IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

**Increase Business Expenditures – $64,900/FY19-20**
**$64,900/FY20-21**

**Decrease Business Expenditures – Net Impact –**
**$20,935,100/FY21-22**
**$29,935,100/FY22-23**
**$35,935,100/FY23-24 and Subsequent Years**

Assumptions for the bill as amended:

- This legislation will result in a decrease in tax liability for individuals and businesses that rehabilitate certified historic structures and follow certain standards and criteria.
- The amount of tax relief provided to such individuals and businesses is estimated to be $20,935,100 ($21,000,000 - $64,900) in FY21-22; $29,935,100 ($30,000,000 - $64,900) in FY22-23; and $35,935,100 ($36,000,000 - $64,900) in FY23-24 and subsequent years. Such businesses will incur increases in expenditures associated with application and certification fees in the amount of $64,900 in each FY19-20 and FY20-21.
- Secondary economic impacts may occur as a result of this legislation. Such impacts may be reflected as additional private capital investment leveraged by the proposed state tax credits, additional jobs created as a result of rehabilitation efforts that would be undertaken as a direct result of this legislation, additional commercial activity at restored historical properties, and increased property values at and around the restored properties. However, due to multiple unknown factors, any such impacts cannot be quantified 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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