Bill Number:	H. 3739	Amended by House Education and Public Works Transportation Subcommittee on January 31, 2018
Author:	Loftis	
Subject:	Highway System Construction	
Requestor:	House Education and Public Works	
RFA Analyst(s):	Wren	
Impact Date:	February 12, 2018	

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	Pending	$0
Other and Federal	Pending	$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	$0	$0
Other and Federal	$0	$0
Local Expenditure	Undetermined	$0
Local Revenue	$0	$0

Fiscal Impact Summary
The expenditure impact of the amended bill on the General Fund, Other Funds, and Federal Funds is pending, contingent upon a response from the Department of Transportation. The expenditure impact on local governments is undetermined since the increased costs and savings depend upon the specific project plans and costs and the existence of prior rights.

Explanation of Fiscal Impact

Amended by House Education and Public Works Transportation Subcommittee on January 31, 2018
State Expenditure
This amendment provides definitions to distinguish between large and small public water utilities and public sewer utilities. A small public water utility is defined as a public water utility that has 10,000 or fewer water taps and serves a population of 30,000 or less. A small public sewer utility is defined as a public sewer utility that has 10,000 or fewer sewer connections and serves a population of 30,000 or less. This amendment also provides that in order to be eligible for payment of relocation costs, the relocation must be placed under the control of the general contractor for the transportation improvement project. Additionally, the public water or sewer utility must meet the bidding and construction schedule established by the entity undertaking the transportation improvement project in order to be eligible for payment of the relocation. The transportation improvement project must bear all of the relocation costs, including design costs for a small public water utility or small public sewer utility. The transportation improvement project must bear all of the relocation costs, including design costs, up to 4 percent of the

original construction bid amount for a large public water utility. In instances where more than one large public water utility or large public sewer utility are required to relocate by a single transportation improvement project, the total cost share of up to 4 percent must be divided pro rata among the large public water or public sewer utilities. For a transportation improvement project that impacts both a large public utility and a small public utility, the entity undertaking the transportation improvement must pay all of the small public utility's relocation costs, without limitation. The entity must also pay up to 4.5 percent, minus the costs of the small public utility's relocation costs, of the original construction bid amount of the transportation improvement project toward the large public entity's relocation costs. A large public water utility or a large public sewer utility may choose not to have the relocation placed under the control of the general contractor, provided that a memorandum of agreement outlining meeting requirements and other milestones that the public utility must meet is agreed upon by the entity undertaking the transportation improvement project. Failure to meet the memorandum requirements will result in the utility having to bear all relocation costs. This amendment applies to all transportation improvement projects that have not had funds authorized for preliminary engineering by the effective date of the act.

The expenditure impact of the amended bill on the General Fund, Other Funds, and Federal Funds is pending, contingent upon a response from the Department of Transportation.

State Revenue
N/A

Local Expenditure
The Revenue and Fiscal Affairs Office surveyed all forty-six county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this amendment. We received responses from three county governments and the MASC.

Florence County does not own a water or sewer system. Therefore, this amended bill will have no expenditure impact on Florence County.

Lancaster County indicates that most of its road projects are limited to resurfacing or initial paving, and the county usually does not participate in widening projects where a utility line may have to be relocated. Therefore, the expenditure impact to Lancaster County will be minimal.

Horry County indicates that this amendment would have increased its expenditures for a recently completed highway project by approximately $2,454,000. Expenses for a recently completed project were $98,300,000. Relocation of utilities for the project cost $9,162,891. The county paid $1,478,181 of the utility relocations because the utility possessed the prior right of way affected by the project, and the utility paid the remaining $7,684,710 where the county possessed the prior right of way. Under this amendment, the county would have been responsible for $3,932,000, which is 4 percent of the project cost, instead of $1,478,181.

Charleston County's response references three projects that have not had funds authorized for preliminary engineering. The costs of the projects are $47,250,000, $71,000,000, and $40,500,000. Further, the county indicates that the 4.5 percent threshold applies to these projects. Therefore, the expenditure impact of these projects on Charleston County is estimated to be approximately $7,000,000.

The MASC indicates that according to the Utilities Relocation Study Committee that was created by the General Assembly by Proviso 68A.10 in 2013, public utilities spent an average of $64,000 to relocate water and sewer lines for every $1,000,000 spent on non-interstate road widening projects. At that time, this was 6.4 percent of the total road project's costs. However, MASC indicates that the figure has likely risen since that time.

Due to the various combination of parties that may be affected, the expenditure impact of this bill on local governments cannot be estimated. Determination of the expenditure impact is further complicated, because increased costs and savings depend upon the specific project plans and costs and the existence of prior rights.

Local Revenue
N/A

Introduced on February 14, 2017
State Expenditure
This bill requires an entity undertaking a transportation improvement project to bear the costs related to relocating water and sewer lines, up to 7.5 percent of the total project cost. Relocation of the water and sewer lines includes lines maintained and operated by a public water system or a public sewer system and located within the rights of way for a transportation improvement project that must be relocated to undertake the project or are otherwise required to be relocated by the department. Section 44-55-20(13) defines a public water system as any publicly or privately owned waterworks system that provides water for human consumption. A public sewer system is defined as any publicly or privately owned sewer system that provides sewer services to the public. Transportation improvement project is defined as a permanent improvement, construction, reconstruction, or alteration to the public highway system undertaken by the department, a county, or a municipality. The bill does not grant the department the authority to prevent or materially limit a public water system's utilization of property located within a state transportation improvement project's right of way for water and sewer construction, installation, maintenance, or operations. Additionally, the department may acquire additional rights of way to facilitate the location of utilities outside the rights of way currently contained in the public highway system. Additional rights of way acquired pursuant to this bill must be funded pursuant to an agreement entered into between the department and the utility desiring to utilize the newly acquired right of way.

The Department of Transportation estimates that this bill could increase expenses by $80,000,000 annually. The department indicates that this estimate was based upon data available in 2014, 2015, and early 2016.

To provide this estimate, the department calculated a cost per mile to relocate utilities by reviewing previous year's projects involving road widening and bridge replacement. The department's contracts included the cost when the department was responsible for relocation.

The department then applied the per mile relocation cost to relevant planned projects and capped the relocation cost at 7.5 percent of the total project cost.

The department indicates that costs could be less than $80,000,000 based on the most recent department ten-year construction plan and budget. The department also indicates the cost will depend on the actual projects for which the agency is able to contract in a given year. Further, the department expects costs may be lower because the mathematical calculation is based on all road widening and bridge replacement projects needing utilities relocated and project costs at the high-end of the budget.

State Revenue
N/A

Local Expenditure
The Revenue and Fiscal Affairs Office contacted all forty-six county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill. Horry County indicated that this bill would have increased its expenditures for a recently completed highway project by almost $5,900,000. The county's total expenditures for the project were $98,300,000. Relocation of utilities for the project cost $9,162,891. The county paid $1,478,181 of the utility relocations because the utility possessed the prior right of way affected by the project, and the utility paid the remaining $7,684,710 where the county possessed the prior right of way. Under this bill, the county would have been responsible for $7,372,500 (7.5 percent of $98,300,000) instead of $1,478,181. In addition, Horry County noted that the total cost of utility relocation would remain the same. The effect of the bill would have been to shift the cost between the county and the utility, in this case, the Grand Strand Water and Sewer Authority, a special purpose district.

Charleston County did not provide costs for a specific utility relocation, but the county referenced two projects that will be undertaken over the next ten years and funded by a voter-approved transportation sales tax. These two projects would cost $700,000,000 and $360,000,000. Applying 7.5 percent to each of these projects could increase costs for utility relocation by about $50,000,000 and $25,000,000 respectively. Charleston County noted these increases would likely result in the removal of planned projects because the transportation sales tax revenue estimates did not account for a 7.5 percent cost of sewer or water line relocation as part of the cost for planned projects in the county. Lancaster County indicated it did not anticipate any impact, as the county is not engaged in road construction beyond resurfacing and maintenance. Other responding counties did not provide an estimate. The MASC has not responded at this time.

As noted above in the discussion of Horry County's response, the bill effectively shifts the cost of utilities relocation between the road project and the utilities. The total cost to relocate the utilities is unchanged. If the utility is a local government, such as a public service district, and the road project is conducted by a municipality or county, the shift in costs is between local governments, so there is no net change in local government expenditures. If the transportation project is a DOT project and the utility is owned and operated by a local government such as a municipality, county, or special purpose district, the local government utility will experience a cost savings and the state will incur a cost increase. If the utility is a privately owned waterworks system or a private not-for-profit sewer system, the bill may increase local government expenditures for a road project without a corresponding offsetting decrease in expenditure by local government utilities.

Because of the various combinations of parties that may be effected, the expenditure impact of this bill on local government cannot be estimated. Determination of the expenditure impact is further complicated, because increased costs and savings depend upon the specific project plans and costs, and the existence of prior rights.

Local Revenue
N/A

Frank A. Rainwater, Executive Director