COMMITTEE REPORT

March 17, 2010

**S. 314**

Introduced by Senator Fair

S. Printed 3/17/10--S.

Read the first time January 27, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 314) to amend Chapter 1, Title 14 of the 1976 Code, relating to misdemeanor traffic offenses and nontraffic violations, by adding Section 14‑1‑240, to impose an, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 1, Title 14 of the 1976 Code is amended by adding:

“Section 14‑1‑240. (A) In addition to all other assessments and surcharges, a five dollar surcharge is imposed on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates’ or municipal court for misdemeanor traffic offenses or for nontraffic violations. The surcharge may not be imposed on violations of state laws, municipal ordinances, or county ordinances restricting parking. The surcharge must be used to fund training at the South Carolina Criminal Justice Academy. No portion of the surcharge may be waived, reduced, or suspended.

(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer shall transfer the revenue quarterly to the South Carolina Law Enforcement Training Council.

(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction that he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations, and the local jurisdiction is required to participate in and cooperate fully with the examination. As well, the State Auditor shall periodically audit the financial records of jurisdictions pursuant to Section 14-1-210. A jurisdiction that fails to comply with this section is subject to the penalties as provided in Section 14-1-210.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JOHN M. KNOTTS, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Since Senate Bill 314 codifies proviso 90.11 of the Fiscal Year’s 2008-09 Appropriation Act, there will be no additional impact on the General Fund of the State or on federal and/or other funds. Further, the Appropriation Bill as recommended by the Governor for Fiscal Year 2009-2010 includes the same proviso language.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other Bill.

*Approved By:*

Harry Bell

Office of State Budget

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT** 1/

Enactment of this bill in concert with retention of the temporary proviso in the State Budget is expected to raise SCCJA earmarked funds by an additional $4,125,000 in FY 2010-11. Enactment of this bill in concert with deletion of the temporary proviso in the budget would have no net impact on SCCJA earmarked funds in FY 2010-11. The bill would have no impact on state general fund revenue under either scenario.

**Explanation**

This bill assesses an additional $5 surcharge in this State on judgments for misdemeanor traffic offenses or nontraffic violations in general sessions, magistrates or municipal courts. Part 1B Proviso 90.7 of Act 23 of 2009 also assesses an additional $5 surcharge. That temporary provision is included in Part 1 B Proviso 90.5 in the General Appropriations Act for FY 2010-11 (H.4657), as adopted by the House Ways and Means Committee. If the proviso is not deleted prior to enactment of the Appropriation Act, both surcharges would apply. No portion of the surcharge may be waived, reduced, or suspended. All proceeds are to be credited to the S. C. Criminal Justice Academy (SCCJA) to fund training.

If temporary Proviso 90.5 is subsequently deleted prior to passage of H.4657, and provisions in this bill become permanent law, then adoption of this bill would have no net impact on revenue allocations of the current additional $5 surcharge to be allocated to the SCCJA through FY 2010-11 and thereafter. However, if this bill is enacted and temporary Proviso 90.5 is not deleted from H.4657 prior to its enactment, then this bill is expected to raise SCCJA earmarked funds by an additional $4,125,000 in FY 2010-11, based on 825,000 such additional surcharges at $5 each. That amount is over and above an estimated base yield of $4,125,000 attributable to retention of the $5 additional surcharge in FY 2010-11 under temporary Part 1B Proviso 90.5. Since no revenue from this surcharge goes to the state’s general fund under either scenario, adoption of the bill would have no impact on general fund revenue on into FY 2010-11 and thereafter.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 14 OF THE 1976 CODE, RELATING TO MISDEMEANOR TRAFFIC OFFENSES AND NONTRAFFIC VIOLATIONS, BY ADDING SECTION 14‑1‑240, TO IMPOSE AN ADDITIONAL FIVE DOLLAR SURCHARGE ON ALL FINES, FORFEITURES, ESCHEATMENTS, OR OTHER MONETARY PENALTIES FOR MISDEMEANOR TRAFFIC OFFENSES OR FOR NONTRAFFIC VIOLATIONS, AND TO PROVIDE THAT THE SURCHARGE SHALL BE USED TO FUND TRAINING AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 14 of the 1976 Code is amended by adding:

“Section 14‑1‑240. (A) In addition to all other assessments and surcharges, a five dollar surcharge is imposed on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates’ or municipal court for misdemeanor traffic offenses or for nontraffic violations. The surcharge shall be used to fund training at the South Carolina Criminal Justice Academy. No portion of the surcharge may be waived, reduced, or suspended.

(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. The State Treasurer shall transfer the revenue quarterly to the South Carolina Criminal Justice Academy.

(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 2. This act takes effect upon approval by the Governor.

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