



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
 (803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number: H. 4628 Amended by the House of Representatives on March 12, 2018
Author: Martin
Subject: Telemarketing
Requestor: Senate Banking and Insurance
RFA Analyst(s): Heineman and Gardner
Impact Date: April 11, 2018

Estimate of Fiscal Impact

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

Fiscal Impact Summary

The expenditure impact for the Department of Consumer Affairs (DCA) is undetermined for the General Fund, Federal Funds, and Other Funds, as the agency is unable to estimate how many complaints they may receive as a result of this bill. There will be no expenditure impact to the Attorney General’s Office for the General Fund, Other Funds, and Federal Funds because any new cases taken up to enforce this bill can be absorbed within existing resources.

The impact on Other Funds revenue is undetermined for DCA because they do not have data to estimate the revenue it would receive from imposing penalties to enforce this bill. The impact on the General Fund for the Attorney General’s Office is undetermined because they do not have data to estimate the number of cases that would yield penalties that would be paid to the General Fund.

The expenditure impact for counties and municipalities is undetermined since the cases the courts would receive are new and there is no existing data to determine the additional number of hearings or trials which may be held.

Explanation of Fiscal Impact

Amended by the House of Representatives on March 12, 2018

State Expenditure

This bill amends current law by adding the South Carolina Telephone and Privacy Protection Act. This bill adds definitions for a consumer, established business relationship, person, personal relationship, prize promotion, and telephone solicitation. A telephone solicitor may not initiate a

telephone solicitation at any time other than between 8:00 a.m. and 9:00 p.m. local time at the consumer's location, unless the telephone solicitor has obtained the prior written consent of the consumer. This bill outlines parameters that solicitors must follow when making phone calls to consumers as well as exclusions to the parameters.

A consumer who is aggrieved by a violation of the parameters the solicitor must follow in this bill can initiate an action to recover losses in addition to damages in the amount of one thousand dollars for each violation. If the circuit, municipal, or magistrate's court finds there is a violation, the court may increase the amount of the award to an amount not exceeding five thousand dollars for each violation. In addition to any damages awarded by the court, the consumer who initiated the action to recover losses and damages may be awarded reasonable attorneys' fees and court costs.

Department of Consumer Affairs. The Department of Consumer Affairs (DCA) Administrator, upon finding a violation of the parameters the solicitor must follow, may issue an administrative order requiring the person to cease and desist, to return property or money received, and impose penalties of up to five thousand dollars for each violation. The DCA may also bring a civil action and funds received through the enforcement of this bill will be retained by the department for administration of this bill.

The department indicates investigating complaints and issuing orders will use department resources but they do not have data to estimate the number of complaints that would prompt an enforcement action. Therefore, the expenditure impact to the General Fund, Federal Funds, and Other Funds is undetermined.

Attorney General. The Attorney General may investigate and enforce telephone solicitation violations and may also bring action to the courts to recover damages for an aggrieved person or persons in the amount of five thousand dollars for each violation. The agency indicates they will not need to hire additional staff or secure other resources in order to manage these cases. If the court finds there has been a violation, the court may award a civil penalty of not more than five thousand dollars for each violation and those penalties in actions brought by the Attorney General must be paid to the General Fund. The Attorney General may recover expenses incurred by the State or local government agency in bringing cases in violation of this bill. Therefore, the bill will have no expenditure impact on the General Fund.

Judicial Department. The department indicates the newly created civil actions for violations can be brought in either magistrate courts or the court of common pleas depending on the amount in controversy. While this bill does provide that these claims may be brought in municipal courts, this scenario seems unlikely, as municipal courts do not have civil jurisdiction because the amount in controversy exceeds the courts jurisdictional limits. Since this bill creates new civil claims, there is no existing data to determine the additional number of hearings or trials which may be held. The department expects to absorb any additional costs incurred by common pleas courts using current General Fund resources. Should this bill result in a significant number of additional hearings or trials in common pleas courts, it could lead to an increased backlog for the Circuit Court as a whole. Since the claims the courts would receive are new and there is no

existing data to determine the additional number of hearings or trials which may be held, the expenditure impact for the General Fund, Federal Funds, and Other Funds is undetermined.

State Revenue

Department of Consumer Affairs. This bill states that the Department of Consumer Affairs can retain funds received in the Telephone Privacy Act enforcement actions to support the administration of this bill. The department indicates they do not have data to estimate the number of complaints that would prompt an enforcement action. Therefore, the revenue impact to Other Funds is undetermined.

Attorney General. The agency indicates it is unlikely they would take on a large number of cases related to telemarketing violations. Funds received from penalties awarded in civil actions brought by the Attorney General must be paid to the General Fund. At this time, they do not have data to estimate the number of cases that would yield penalties that would be paid to the General Fund. Therefore, the revenue impact to the General Fund is undetermined.

Local Expenditure

This bill, which establishes the South Carolina Telephone Privacy Act, creates new civil actions that may be filed in magistrate courts. The Judicial Department expects that if the bill results in additional cases being heard in magistrate courts, any costs incurred as a result will be borne by the counties. While this bill does provide that such claims may be brought in municipal courts, this scenario seems unlikely, as municipal courts do not have civil jurisdiction because the amount in controversy exceeds the courts jurisdictional limits. Should this bill be construed to authorize municipal courts jurisdiction over these civil claims any costs incurred as a result would be borne by the municipalities. Since the claims the courts would receive are new and there is no existing data to determine the additional number of hearings or trials which may be held, the expenditure impact for counties and municipalities is undetermined.

Local Revenue

N/A



Frank A. Rainwater, Executive Director