



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4889 Amended by House Judiciary on March 8, 2018
Author: Delleney
Subject: Conservation Easement
Requestor: Senate Judiciary
RFA Analyst(s): Wren and Gardner
Impact Date: March 27, 2018

Estimate of Fiscal Impact

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

Fiscal Impact Summary

This bill could increase Other Funds expenses of the Department of Transportation (DOT) by \$5,000 to \$10,000 for work from engineering, right-of-way, and environmental staff to explore an alternative analysis. This bill would have no expenditure impact on the General Fund, Other Funds, or Federal Funds of the South Carolina Conservation Bank since the bill does not alter the responsibilities of the department. The Judicial Department indicates that any additional expenses resulting from an increase in the number of hearings or trials could be managed within current appropriations. Therefore, the bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of the Judicial Department.

County governments and the Municipal Association of South Carolina indicate that expenses associated with this bill would depend upon the number of properties under a conservation easement and will vary widely. The process may extend the time required for staff to respond to actions and may delay projects. The impact would be infrequent but may significantly impact expenses for specific projects. Therefore, the expenditure impact on local governments is undetermined.

Explanation of Fiscal Impact

Amended by House Judiciary on March 8, 2018

State Expenditure

This bill allows the holder of a conservation easement to contest an action to condemn property involving a conservation easement within a thirty-day period. The condemnor may not take possession of the property until a hearing is held in a circuit court of appropriate jurisdiction.

The court must determine whether a prudent and feasible alternative exists. Also, the bill provides for exceptions under certain circumstances as to when a determination of alternatives is not required. The bill takes effect upon approval by the Governor.

Department of Transportation. DOT indicates that this bill could increase Other Funds expenses by \$5,000 to \$10,000 to explore an alternative analysis. The actual expense would be dependent upon the complexity of the project, but generally would require work from engineering, right-of-way, and environmental staff. This would occur in about one project every one to two years.

South Carolina Conservation Bank. The Conservation Bank indicates that this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds since the bill does not alter the responsibilities of the department.

Judicial Department. This bill alters the condemnation procedure where the property sought to be condemned is subject to a conservation easement. Among other things, the bill would not permit the condemnor of such a property to take possession upon the filing of the suit, would place the burden of proof on the condemnor under certain circumstances, and would require the condemnor to consider prudent and feasible alternatives during his survey or appraisal of the property if he has written notice that the property is subject to a conservation easement.

While the department believes the bill will have minimal impact on the current caseload of condemnation actions in common pleas courts, it will manage any additional expenses resulting from an increase in the number of hearings or trials within current General Fund appropriations. Should the bill result in a significant number of additional hearings or trials in common pleas courts, it could result in an increased backlog for the Circuit Court as a whole.

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. We received responses from four county governments and the MASC. The varying responses indicate that local expenses would depend upon the number of properties under a conservation easement and will vary widely. The process may extend the time required for staff to respond to actions and may delay projects. The impact would be infrequent but may significantly impact expenses for specific projects. Therefore, the expenditure impact on local governments is undetermined.

Local Revenue

N/A



Frank A. Rainwater, Executive Director