South Carolina Revenue and Fiscal Affairs Office
Statement of Estimated Fiscal Impact
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Bill Number:	S. 0754 Introduced on January 9, 2018
Author:	Setzler
Subject:	Amendment to SC Code of Laws of 1976; Title 02 and Title 58
Requestor:	Senate Judiciary
RFA Analyst(s):	Wren, Kokolis, and R. Martin
Impact Date:	March 9, 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)	11.0	0.00
State Revenue		
General Fund	See Below	$0
Other and Federal	See Below	$0
Local Expenditure	$0	$0
Local Revenue	See Below	$0

Fiscal Impact Summary

The Public Service Commission (PSC) indicates that reducing the number of commission members by two and increasing the salary for commission members will result in a cost savings in Other Funds of approximately $144,000 per year, beginning in FY 2018-19. Additionally, PSC indicates that this bill will increase Other Funds expenses by approximately $986,000 in FY 2018-19 for 4 FTEs, industry consultants, security, court reporting, office rental, and support services. Of this amount, approximately $70,000 is nonrecurring for information technology purchases. In total, this bill is expected to increase Other Funds expenses of PSC by approximately $842,000.

This bill will increase Other Funds expenses of the Office of Regulatory Staff (ORS) by approximately $1,323,000 in FY 2018-19. Of this amount, $710,000 is recurring for 7 FTEs, travel, training, subscriptions, equipment leases, database maintenance, and office rent to support the consumer advocate provision of the bill. Nonrecurring funds are expected to total $290,000 for office equipment for the new FTEs.

The Public Service Authority (PSA) indicates a concern that lowering their electrical rates by 4.3 percent could result in a reduction of revenue of up to $69,000,000 in calendar year 2018, with varying further losses through calendar year 2026. Based on the nature of public utility funding, this bill may have complex impacts on revenue streams and programs beyond those specified in this bill. Therefore, the overall impact to PSA is undetermined.

This bill will have no expenditure impact on the General Fund or Federal Funds.

This bill could reduce state sales and use tax revenue in FY 2018-19 by $9,531,000 due to lower prices for commercial customers. Of this amount, General Fund sales and use tax revenue will be reduced by $6,353,000, the EIA will be reduced by $1,589,000, and the Homestead Exemption Fund will be reduced by $1,589,000. Additionally, General Fund revenue would be reduced by an additional $763,293 in FY 2018-19. The bill may also affect revenue collections from the corporate income tax and the corporate license tax. Since the accounting for the loss of a planned capital investment in the utility industry is extraordinarily difficult and unpredictable, the effects of the abandonment of the two nuclear reactor projects by SCANA on corporation income tax and corporate license tax is uncertain. Also, there is much discussion about the change in ownership of the public utility and the changing of utility rates. Despite these obstacles, we expect electric power will continue to be generated, and the electric power generation tax should not be affected.

PSC indicates that this bill could increase Other Funds revenue by approximately $9,000 for the sale of transcripts from proceedings as a result of increased interest in cases brought before the agency.

Section 58-31-100 requires PSA to make additional payments in lieu of taxes to certain counties. Counties in which PSA owns, leases, or operates electric generating facilities will receive 15 percent, or approximately $114,000 in revenue in FY 2018-19. Berkeley, Horry, and Georgetown Counties will receive 10 percent, or approximately $76,000 in revenue in FY 2018-19.

The bill also creates two new felony offenses and a crime of moral turpitude. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on the General Fund and Other Funds is undetermined.

Explanation of Fiscal Impact

Introduced on January 9, 2018
State Expenditure
The bill requires the Public Service Commission to reduce the electric rates charged by the South Carolina Electric & Gas Company by 18 percent for the portion attributable to the abandoned nuclear units in Fairfield County. Also, the bill prohibits the Public Service Authority from charging in its rate 4.3 percent attributed to the abandoned nuclear units in Fairfield County. A utility must not include in its rates any amount attributable to a base load review project that is not generating power as of January 1, 2018.

Additionally, the bill requires agencies to perform the following duties.

Public Service Commission (PSC). The bill reduces the number of PSC members from seven to five and increases the salary for commission members from the salary of other state officers to the same amount as established for a circuit court judge. PSC indicates that the current base salary for its commission members is $107,822. Additional expenses for each commission member averages approximately $48,000 for an assistant, office supplies, travel, and other miscellaneous expenses. Reducing the number of commission members from seven to five and increasing the salary for commission members to that of a circuit court judge will result in a cost savings in Other Funds of approximately $144,000 per year, beginning in FY 2018-19.

Additionally, PSC, instead of the Office of Regulatory Staff (ORS), is responsible for economic development, job attraction and retention in the state, and preservation of the financial integrity of the state's public utilities. Further, PSC is responsible for the continued investment and maintenance of utility facilities. PSC must also supervise and regulate any joint ownership project and joint ownership facility between a public utility in this state and PSA. PSC indicates that this portion of the bill will increase Other Funds expenses by approximately $986,000 in FY 2018-19. Of this amount, PSC estimates recurring expenses of approximately $489,000 are needed for 4 FTEs. Additional recurring expenses for industry consultants, security, court reporting, office rental, and support services are expected to total approximately $427,000. Nonrecurring expenses of approximately $70,000 are needed for information technology purchases.

Since PSC is solely operated by Other Funds, this bill will have no expenditure impact on the General Fund or Federal Funds.

Office of Regulatory Staff (ORS). The bill requires ORS to add a consumer advocate, which must be appointed, supervised, and directed by the Executive Director. ORS indicates that this portion of the bill will increase Other Funds expenses by approximately $1,323,000 in FY 2018-19. Of this amount, recurring funds of approximately $710,000 are needed for 7 FTEs to staff the consumer advocate requirement of the bill. Additional recurring expenses are expected to total approximately $323,000 for travel, training, subscriptions, equipment leases, database maintenance, and rent for additional office space for staff. Nonrecurring funds of approximately $290,000 are needed for office equipment for the additional 7 FTEs.

Since ORS is solely operated by Other Funds, this bill will have no expenditure impact on the General Fund or Federal Funds.

Public Service Authority (PSA). The bill prohibits PSA from charging in its rate 4.3 percent attributed to the abandoned nuclear units in Fairfield County as of January 1, 2018. Also, bonds issued in excess of 50 percent of PSA's bonding capacity must be reviewed by the Joint Bond Review Committee and approved by the State Fiscal Accountability Authority. Further, the board of Directors of PSA is prohibited from offering retirement or deferred compensation programs to officers, agents, employees, and servants of PSA that are not administered by the South Carolina Public Employee Benefit Authority. PSA indicates that it is a not-for-profit public power utility and its rates are set to recover actual expenses including debt service. Additionally, PSA indicates a concern that lowering their electrical rates by 4.3 percent could result in a reduction of revenue of up to $69,000,000 in calendar year 2018, with varying further losses through calendar year 2026. Based on the nature of public utility funding, this bill may have complex impacts on revenue streams and programs beyond those specified in this bill. Therefore, the overall impact to PSA is undetermined.

State Fiscal Accountability Authority (SFAA). The bill requires that bonds issued in excess of 50 percent of PSA's bonding capacity must be reviewed by the Joint Bond Review Committee and approved by the State Fiscal Accountability Authority. SFAA indicates that this bill requires the agency to perform activities that will be conducted in the normal course of agency business. Therefore, the bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of SFAA.

Public Employment Benefit Authority (PEBA). The bill prohibits the PSA Board of Directors from offering retirement or deferred compensation programs to officers, agents, employees, and servants of PSA that are not administered by PEBA. PEBA indicates that this bill requires the agency to perform activities that will be conducted in the normal course of agency business. Therefore, the bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds of PEBA.

House of Representatives and Senate. The bill increases the number of members of the Public Utilities Review Committee from ten to twelve. The two additional members are members of the general public and are appointed by the Governor. The legislative bodies are responsible for advancing any expenses accrued by the Public Utilities Review Committee. The state reimburses the legislative bodies the incurred expenses at such time as the funds have been collected from the public utilities. Therefore, the two additional members of the committee would have a minimal expenditure impact to Other Funds of the House of Representatives and the Senate. This amount will be reimbursed by the public utilities.

Department of Revenue (DOR). The bill increases the number of members of the Public Utilities Review Committee from ten to twelve. The two additional members are members of the general public and are appointed by the Governor. The legislative bodies are responsible for advancing any expenses accrued by the Public Utilities Review Committee. The state reimburses the legislative bodies the incurred expenses at such time as the funds have been collected from the public utilities. DOR currently assesses each public utility its portion of the expenses in proportion to its gross income for operation in the state. DOR collects these assessments and pays the balance of the collections, minus the administrative costs, into the state treasury. Since DOR is currently performing this duty for the Public Utilities Review Committee, we anticipate that any expenses as a result of the addition of two members to the committee will be minimal. Therefore, this bill would have no expenditure impact on DOR's General Fund, Other Funds, or Federal Funds.

State Revenue

The sudden abandonment of the construction of two nuclear power plants by the SCANA Corporation has introduced many uncertainties and contingencies in projecting revenues. Since this bill proposes reducing the electric rates that customers would pay based on their electricity usage, this bill may affect the sales tax, the corporate income tax, the corporate license tax, the electric power tax, and the 1 percent contribution from the Public Service Authority to the state General Fund. The following analysis estimates the potential impact on state revenues, though a final estimate may depend upon a review of all financial and economic conditions at the time of implementation.

Currently, the sales of electricity to private residences and manufacturing plants are exempt from the state sales and use tax in South Carolina. The sale of electricity to the commercial (business) sector, however, is subject to the sales and use tax. If electric rates are changed, those rate changes will be reflected in the charges for electricity on customer's monthly billing statements. The changes in commercial billing rates will be reflected ultimately in changes in state sales and use tax revenue collections.

According to the latest data from the U.S Department of Energy, Energy Information Administration, total energy expenditures in the commercial sector totaled more than $2,600,000,000 in South Carolina. Of this amount, electricity accounts for 85 percent of all energy used in the commercial sector. Adjusting this figure by an average annual rate increase in electricity consumption of 2.4 percent per year, total electricity expenditures in the commercial sector are estimated to reach $2,465,400,000 in FY 2018-19. Also, according to the U.S. Department of Energy, South Carolina Electric and Gas (SCE&G) commands 28.39 percent of the total electricity demand in South Carolina based upon the total amount of megawatt hours sold. Multiplying an estimated $2,465,400,000 of electricity expenditures by the commercial sector in FY 2018-19 by 28.39 percent of the electricity market controlled by SCE&G and applying an 18 percent electricity rate reduction and a 6 percent state sales and use tax, yields a reduction of an estimated $7,559,000 in state sales and use tax revenue in FY 2018-19. Of this amount, General Fund sales and use tax revenue will be reduced by $5,039,000, the EIA will be reduced by $1,260,000, and the Homestead Exemption Fund will be reduced by $1,260,000 in FY 2018-19.

Also, according the U.S. Department of Energy, the South Carolina Public Service Authority (PSA), more commonly referred to as Santee Cooper, commands 31.0 percent of the total electricity demand in South Carolina based upon the total amount of megawatt hours sold. Multiplying an estimated $2,465,400,000 of electricity expenditures by the commercial sector in FY 2018-19 by 31.0 percent of the electricity market controlled by the PSA and applying a 4.3 percent electricity rate reduction and a 6 percent state sales and use tax, yields a reduction of an estimated $1,972,000 in state sales and use tax revenue in FY 2018-19. Of this amount, General Fund sales and use tax revenue will be reduced by $1,314,000, the EIA will be reduced by $329,000, and the Homestead Exemption Fund will be reduced by $329,000 in FY 2018-19.

Pursuant to Section 58-31-110, the Public Service Authority (PSA) contributes up to 1 percent of its projected net operating revenues to the state General Fund each fiscal year. This amounted to $17,751,000 in FY 2016-17. The Board of Economic Advisors maintained and adopted a contribution level of $17,751,000 in FY 2018-19. If the utility rates are reduced by 4.3 percent, the amount of projected net operating revenues will be affected. Multiplying $17,751,000 of estimated net operating revenues by a 4.3 percent reduction in utility rates would reduce the 1 percent contribution level to the state General Fund by an estimated $763,293 in FY 2018-19.

This bill may also affect revenue collections from the corporate income tax, the corporate license tax, and the electric power tax. Since the accounting for the loss of a planned capital investment in the utility industry is extraordinarily difficult and unpredictable, the effects of the abandonment of the two nuclear reactor projects by SCANA on corporation income tax and corporate license tax is uncertain. Also, there is much discussion about the change in ownership of the public utility and the changing of utility rates. Despite these obstacles, electric power will continue to be generated. The electric power generation tax should not be affected by the recent events.

Additionally, PSC indicates that this bill could increase revenue from the sale of transcripts from proceedings as a result of increased interest in cases brought before the agency. This could result in an increase of approximately $9,000 in Other Funds revenue of PSC.

This bill also creates a felony associated with the willful and intentional failure to provide relevant information or the willful and intentional misrepresentation of a matter to PSC. Anyone found guilty of this felony must be fined, in the discretion of the court, and may be found in contempt of court. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

Also, this bill creates a felony associated with the willful and intentional failure to comply with a subpoena issued by the Executive Director of ORS pursuant to Section 58-4-55. Anyone found guilty of this felony must be fined, in the discretion of the court, and may be found in contempt of court. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

This bill also adds Section 2-1-260 to provide that departments, bureaus, officers, commissions, institutions, and other state agencies, upon request, must immediately furnish any information requested to the President Pro Tempore of the Senate or the Speaker of the House of Representatives. Information that is considered exempt from public disclosure pursuant to Section 30-4-40 does not constitute a waiver of confidentiality. Further, any member of the General Assembly who obtains this information and willfully violates the confidentially provisions must be deemed guilty of a crime of moral turpitude and upon conviction must be fined no more than $100 or imprisoned for no more than thirty days for a first offense. For a second offense, the fine is no more than $200 or imprisonment for no more than sixty days. For third and subsequent offenses, the fine is no more than $300 or imprisonment for no more than ninety days. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

Local Expenditure
N/A

Local Revenue
Pursuant to Section 58-31-100, the Public Service Authority (PSA) must make additional payments in lieu of taxes to certain counties. Fifteen percent of the amount paid into the General Fund in the fiscal year must be paid to the counties in which PSA owns, leases, or operates electric generating facilities. The funds must be allocated among the counties in the proportion in which the generating capacity of PSA is located and operated in each county. Ten percent of the amount paid into the General Fund in the fiscal year must be paid to Berkeley, Horry, and Georgetown Counties. The funds must be allocated among these three counties in the proportion in which the kilowatt hour sales, excluding sales for resale, made by PSA bears to the total of the kilowatt hour sales.

The 1 percent contribution from PSA to the General Fund is estimated to be $763,293 in FY 2018-19. Therefore, counties in which PSA owns, leases, or operates electric generating facilities will receive 15 percent, or approximately $114,000 in revenue in FY 2018-19. Berkeley, Horry, and Georgetown Counties will receive 10 percent, or approximately $76,000 in revenue in FY 2018-19.

Frank A. Rainwater

Frank A. Rainwater, Executive Director