



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 1128 Amended by Senate Judiciary on March 20, 2018
Author: Rankin
Subject: Base Load Review Act
Requestor: Senate Judiciary
RFA Analyst(s): Wren and Gardner
Impact Date: March 23, 2018 - Updated for Additional Agency Response

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$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	Undetermined	\$0

Fiscal Impact Summary

The amended bill allows the Office of Regulatory Staff (ORS) to seek injunctive relief when requested information is not received, which could increase the number of depositions or legal proceedings by the office. Depending on the lack of cooperation and location by an affected entity, the office could experience increased costs of up to \$450,000 in a fiscal year. The Judicial Department indicates that since this bill creates a new civil claim, data is not available to determine the number of hearings or trials that may be held as a result of the bill. However, the department anticipates that any additional expenses could be absorbed within current appropriations. Therefore, the bill is not expected to have an expenditure impact on the General Fund, Other Funds, or Federal Funds of the Judicial Department.

Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in the court system among the General Fund, specified state agencies and programs, and local governments. Therefore, the impact on General Fund revenue, Other Funds revenue, and local government revenue is undetermined since data is not available to determine the number of individuals who may fail to comply with a court order issued pursuant to the provisions of the bill. Additionally, the impact on local government expenses is undetermined since data is not available to determine the bill's effect on the number of proceedings in the court system. This impact statement has been updated to include a response from the Judicial Department.

Explanation of Fiscal Impact

Updated for Additional Agency Response Amended by Senate Judiciary on March 20, 2018

State Expenditure

The amended bill authorizes the Executive Director of ORS, including the acting Executive Director, to file an action against an entity in circuit court to obtain injunctive relief requiring the production of documents or witnesses. This action may be brought under certain circumstances if an entity has provided goods or services related to the design, construction, or operation of a facility located in this state and has been subject to a proceeding concerning the Base Load Review Act. Any action must be filed in the county in which the facility is located. The relief that may be granted in an action is an order requiring the production of documents, an order requiring the appearance of witnesses, an order allowing ORS to take depositions of witnesses, or any combination thereof. An action brought by the Executive Director of ORS pursuant to this bill must be given administrative priority by the Chief Administrative Judge for the circuit in which it has been brought and must be heard and decided as expeditiously as is consistent with due process. The bill takes effect upon approval by the Governor.

Office of Regulatory Staff (ORS). The bill allows ORS to seek injunctive relief when requested information is not received, which could increase the number of depositions or legal proceedings by the office. Depending on the lack of cooperation and location by an affected entity, the office could experience increased costs of up to \$450,000 in a fiscal year. Since ORS operates solely on Other Funds, this bill would have no expenditure impact on the General Fund or Federal Funds.

Judicial Department. If enacted, this bill would create a new equitable claim to be heard and decided in the Court of Common Pleas and require that such a claim be given administrative priority. Since this legislation would create a new civil claim, there is no data to determine the additional number of hearings or trials that may be held as a result of this bill. The department anticipates that any additional expenses resulting from this bill could be absorbed within current appropriations. Therefore, this bill is not expected to have an expenditure impact on the General Fund, Other Funds, or Federal Funds of the Judicial Department. However, should this legislation result in a significant number of additional hearings and trials in Common Pleas Court, it could result in an increased backlog for the Circuit Court as a whole. This section of the impact statement has been updated to include a response from the department.

State Revenue

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in the court system among the General Fund, specified state agencies and programs, and local governments. Since data is not available to estimate the number of individuals who may fail to comply with a court order pursuant to the provisions of this bill, the impact on General Fund and Other Funds revenue is undetermined.

Local Expenditure

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Data is not available to determine the number of individuals that may fail to comply with a court order pursuant to the provisions of this bill. Therefore, the bill's effect on proceedings in the court system cannot be estimated, and the expenditure impact on local governments is undetermined.

Local Revenue

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in the court system among the General Fund, specified state agencies and programs, and local governments. Since data is not available to estimate the number of individuals who may fail to comply with a court order pursuant to the provisions of this bill, the impact on local government revenue is undetermined.

Amended by Senate Judiciary on March 20, 2018

State Expenditure

The amended bill authorizes the Executive Director of ORS, including the acting Executive Director, to file an action against an entity in circuit court to obtain injunctive relief requiring the production of documents or witnesses. This action may be brought under certain circumstances if an entity has provided goods or services related to the design, construction, or operation of a facility located in this state and has been subject to a proceeding concerning the Base Load Review Act. Any action must be filed in the county in which the facility is located. The relief that may be granted in an action is an order requiring the production of documents, an order requiring the appearance of witnesses, an order allowing ORS to take depositions of witnesses, or any combination thereof. An action brought by the Executive Director of ORS pursuant to this bill must be given administrative priority by the Chief Administrative Judge for the circuit in which it has been brought and must be heard and decided as expeditiously as is consistent with due process. The bill takes effect upon approval by the Governor.

Office of Regulatory Staff (ORS). The bill allows ORS to seek injunctive relief when requested information is not received, which could increase the number of depositions or legal proceedings by the office. Depending on the lack of cooperation and location by an affected entity, the office could experience increased costs of up to \$450,000 in a fiscal year. Since ORS operates solely on Other Funds, this bill would have no expenditure impact on the General Fund or Federal Funds.

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

State Revenue

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in

the court system among the General Fund, specified state agencies and programs, and local governments. Since data is not available to estimate the number of individuals who may fail to comply with a court order pursuant to the provisions of this bill, the impact on General Fund and Other Funds revenue is undetermined.

Local Expenditure

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Data is not available to determine the number of individuals that may fail to comply with a court order pursuant to the provisions of this bill. Therefore, the bill's effect on proceedings in the court system cannot be estimated, and the expenditure impact on local governments is undetermined.

Local Revenue

The amended bill provides that anyone who fails to comply with a court order issued pursuant to this bill may be found in contempt of court and fined in the discretion of the court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in the court system among the General Fund, specified state agencies and programs, and local governments. Since data is not available to estimate the number of individuals who may fail to comply with a court order pursuant to the provisions of this bill, the impact on local government revenue is undetermined.



Frank A. Rainwater, Executive Director