



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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<b>Bill Number:</b>	S. 0107	Introduced on January 8, 2019
<b>Author:</b>	Campbell	
<b>Subject:</b>	Definition of Dam and Tax Credit for Repairs or Enhancements	
<b>Requestor:</b>	Senate Agriculture and Natural Resources	
<b>RFA Analyst(s):</b>	Shuford and Jolliff	
<b>Impact Date:</b>	January 15, 2019	

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### **Fiscal Impact Summary**

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. The Department of Health and Environmental Control (DHEC) indicates that existing program staff may be able to manage the additional dam inspections and other administrative duties required by the bill within existing appropriations. However, existing program responsibilities are approaching current staff's ability to administer the dam safety program.

This bill will reduce General Fund income tax revenue by up to \$3,500,000 in FY 2019-20, but the revenue impact may increase substantially in future years since DHEC has identified 770 dams for review and potential reclassification. If all of those dams are reclassified and 46.8 percent require repairs as experienced currently, another 360 dams could be eligible for the tax credit. These dams would be eligible for up to \$18,000,000 in tax credits in future years.

### **Explanation of Fiscal Impact**

#### **Introduced on January 8, 2019**

#### **State Expenditure**

This bill requires DHEC to determine whether an existing, new, or enlarged dam or reservoir is excluded from the provisions of the Dams and Reservoirs Safety Act based on the provisions of Section 49-11-120(4) (a) through (f) as amended by this bill. The bill requires further that dam owners provide DHEC with their name, address, phone number, email address, and a completed owner checklist. DHEC indicates that existing program staff may be able to manage the additional dam inspections and other administrative duties required by the bill within existing appropriations. However, DHEC is not certain of their estimate since existing program responsibilities are approaching current staff's ability to administer the dam safety program. Therefore, we anticipate that this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds.

#### **State Revenue**

This bill would allow a taxpayer to claim a refundable income tax credit for repairs or enhancements required by the Department of Health and Environmental Control (DHEC) for dams and reservoirs due to a reclassification of the dam or reservoir. The credit is equal to the actual cost of the repairs or enhancements, not to exceed \$50,000.

The proposed credit is integrated with an existing non-refundable tax credit in Section 12-6-3370. As amended, Subsection (A)(1) is the existing credit for construction installation or

restoration of ponds lakes and other water impoundments. Subsection (B) restricts the amount of the existing credit for pass-through entities to \$2,500 at the entity level. It further restricts the credit to \$2,500 for all taxpayers.

The new refundable tax credit for dams and reservoirs is created in Subsection (A)(2). However, added language in Subsection (B) states that the maximum amount of credit for all taxpayers is limited to \$2,500 unless the credit is claimed pursuant to Subsection (A)(2) in which case the credit is equal to the actual cost of the repairs or enhancements, not to exceed \$50,000. Since the second sentence provides a higher credit amount for credits pursuant to Subsection (A)(2), we have assumed that the limitation will be \$50,000 and is not restricted to \$2,500 for pass-through entities or other taxpayers. This interpretation is based upon past case law in which the S.C. Supreme Court determined that when any ambiguity exists, the determination must be made in favor of the taxpayer.

Further, the tax credit is for repairs or enhancements required by DHEC due to a reclassification of a dam. DHEC has informed us that the reclassification itself would not require an action on the part of the owner. If the dam already needs action or requires action in the future, the reclassification may affect the type of repair or enhancement required. Since Subsection (B)(1) provides that the credit is equal to the actual cost of repairs or enhancements, we are interpreting this credit to include any repairs or enhancements for a dam that has been reclassified will qualify for the tax credit, regardless of when they were completed or whether they were needed prior to the reclassification. If the repairs are completed in phases over multiple years, the taxpayer may be allowed to claim a credit up to \$50,000 for each year over multiple years.

Since the bill does not specify a period in which the repairs must have been completed, we have asked DHEC for data on all dams since 2015 to capture the impact of the October 2015 floods.

DHEC is responsible for oversight of regulated dams that meet specific criteria. Dams are classified by size and by potential loss of human life or property damage in the event of a failure or improper operation of the dam.

Presently, dams are regulated if they meet one of the following criteria:

- 25 feet in height
- Impounds 50 acre feet or more of water
- Potential failure may cause loss of human life

#### Dam Classifications

Class I	High Hazard	Failure will likely cause loss of life or serious damage to infrastructure.
Class II	Significant Hazard	Failure will not likely cause loss of life but may damage infrastructure.
Class III	Low Hazard	Failure may cause limited property damage.

(Source: <https://scdhec.gov/environment/water-quality/dams-and-reservoirs>)

Dam owners are responsible for maintaining the structural integrity of their dams. Dams may be reviewed and reclassified by DHEC. Since 2015, DHEC has reclassified 158 dams of the 2,413 total dams on inventory as of 2018. Further, an additional 770 dams have been identified for review for potential reclassification.

DHEC does not maintain statistics on the scope or extent of repairs to regulated dams. Further, they do not collect information on the cost of repairs. As such, we researched national data to determine the potential range of costs. A report by the Task Committee of the Association of State Dam Safety Officials, *The Cost of Rehabilitating Our Nation's Dams*, updated in 2016 indicates that \$18.71 billion of rehabilitation is required for the estimated 14,282 non-federal high hazard dams nationwide. This is an average of \$1,310,041 per dam. For other non-federal dams, the report estimates a total of \$60.70 billion in rehabilitation for 87,199 dams is needed at an average of \$696,109. While we expect that these costs may be higher than required for most dams, we do anticipate that the majority of repairs, including engineering costs and labor, will meet or exceed the \$50,000 expense limit in the proposed credit.

Of the 158 dams that have been reclassified since 2015, 74 dams (46.8 percent) required repairs. Of those 74 dams, the State owns 2, there are 2 dams listed as owned by local government/private entities, and the remaining 70 are privately owned. As of October 2018, only 21 of the 74 dams (28.4 percent) have had permits issued for repairs, and repairs are completed on 8 of those 21 dams. Of the 8 reclassified dams that have been repaired, 6 are privately owned, 1 is owned by the state, and 1 is owned by local government.

Only those dams owned by private entities or public utilities that pay income taxes would be able to claim the tax credit. Currently, 70 reclassified dams requiring repairs are owned by private entities who could claim the tax credit. Given that the tax credit is refundable, we expect that this may encourage further repairs and have based our analysis on the full 70 reclassified dams that can claim the credit. Multiplying \$50,000 times the 70 eligible dams would result in potential tax credits of \$3,500,000 beginning in tax year 2019. This will reduce General Fund individual income tax revenue by up to \$3,500,000 in FY 2019-20.

Further, as mentioned above, DHEC has identified 770 dams for review and potential reclassification. If all of those dams are reclassified and 46.8 percent require repairs as experienced currently, another 360 dams could be eligible for the tax credit. These dams would be eligible for up to \$18,000,000 in tax credits in future years.

Given these uncertainties, we expect that the bill will reduce General Fund income tax revenue by up to \$3,500,000 in FY 2019-20, but the revenue impact may increase substantially in future years.

### **Local Expenditure and Revenue**

N/A



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Frank A. Rainwater, Executive Director