



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** H. 3120 Amended by Senate Finance Natural Resources and Economic Development Subcommittee on May 10, 2022

**Author:** Hyde

**Subject:** Income Tax Credit

**Requestor:** Senate Finance

**RFA Analyst(s):** Jolliff

**Impact Date:** May 11, 2022

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### **Fiscal Impact Summary**

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. The bill does not specify how the tax credits are to be allocated, but we expected based on discussions with the Department of Revenue (DOR) that the credits will be allocated on a first-come, first-served basis. Under this assumption, DOR will develop forms and guidance for this tax credit with existing staff and resources, and therefore, this bill is not expected to impact expenditures for the agency.

The bill is expected to reduce total General Fund individual and corporate income tax revenue by an estimated \$1,000,000 per calendar year for tax years 2021 to 2025. The bill is applicable beginning in tax year 2021, and we assume that the first year of credits will be taken in calendar year 2022. Based upon the potential enactment date, the bill is expected to first impact FY 2022-23. The impact in FY 2022-23 would potentially be a total of \$2,000,000 for calendar year 2022 and 2023 (tax years 2021 and 2022). This impact would then decline to \$1,000,000 per year in fiscal years FY 2023-24 through FY 2025-26. The timing of the impact for tax year 2022 claims in calendar year 2023 may vary depending on when taxpayers file their returns. Additionally, taxpayers may carryforward the credits for five tax years, which may further affect the timing of the revenue impact.

### **Explanation of Fiscal Impact**

**Amended by Senate Finance Natural Resources and Economic Development Subcommittee on May 10, 2022**

#### **State Expenditure**

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. The credit takes effect for tax year 2021, and the total amount of credits is limited to \$1,000,000 in a calendar year. The bill does not specify how the tax credits are to be allocated, but we expected based on discussions with DOR that the credits will be allocated on a first-come, first-served basis. Under this assumption, DOR will develop forms and guidance for this tax credit with existing staff and resources, and therefore, this bill is not expected to impact expenditures for the agency.

## State Revenue

The bill adds Section 12-6-3810 to provide an income tax credit to any taxpayer who encumbers his property with a perpetual recreational trail easement. The taxpayer is allowed a one-time income tax credit equal to ten cents for each square foot of the property that is encumbered by the recreational trail easement. The bill provides requirements for holding of the easement, recording of the easement, and other specifications for the trail easement to qualify for the income tax credit.

If the credit exceeds the taxpayer's liability, the excess may be carried forward for five tax years. The credit may be taken against individual or corporate income tax. The credit is available for tax years 2021 to 2025. The amount of credits allowed to all qualifying taxpayers may not exceed \$1,000,000 in a calendar year.

The South Carolina Recreation and Parks Association (SCRPA) provided the following data regarding the potential trails for the responding members from 2016 to 2020. Not all local governments responded, and additional miles are expected to qualify beyond these reported below. Additional information regarding the proportion of the miles that will qualify based on the easement restrictions in the bill is not available.

### Recreational Trails

Local Entity	Square Feet	State Land Area Percentage
City of Myrtle Beach	50,000	0.08%
Greenville County	550,000	2.62%
Irmo Chapin Recreation Commission	5,000	n/a
Lancaster County	5,000,000	1.82%
Spartanburg County	3,611,520	2.69%
<b>Total Reported</b>	<b>9,216,000</b>	<b>7.22%</b>

These entities account for approximately 7.22 percent of the total state land area.<sup>12</sup> If all areas had an equivalent ratio of square feet to eligible trail miles by area, this would equate to approximately 127,663,000 miles or potentially \$12,700,000 in income tax credits for easements from 2016 to 2020. Dividing this amount by 5 yields approximately \$2,540,000 per year.

Based upon these figures, we anticipate that the total miles per year may meet the \$1,000,000 tax credit limit each calendar year. The bill is applicable beginning in tax year 2021. We assume, therefore, that the credits will be first claimed in calendar year 2022. Based upon the potential enactment date, the bill is expected to first impact FY 2022-23 and would potentially be a total of \$2,000,000 for calendar years 2022 and 2023 (tax years 2021 and 2022). The impact would be \$1,000,000 per year in fiscal years FY 2023-24 through FY 2025-26. The timing of the impact for tax year 2022 claims in calendar year 2023 may vary depending on when taxpayers file their

<sup>1</sup> [https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land\\_area.pdf](https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land_area.pdf)

<sup>2</sup> [https://www2.census.gov/geo/docs/maps-data/data/gazetteer/2019\\_Gazetteer/2019\\_gaz\\_place\\_45.txt](https://www2.census.gov/geo/docs/maps-data/data/gazetteer/2019_Gazetteer/2019_gaz_place_45.txt)

returns. Additionally, taxpayers may carryforward the credits for five tax years, which may further affect the timing of the revenue impact.

### **Introduced on January 12, 2021**

#### **State Expenditure**

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. The credit takes effect upon approval by the Governor and applies to taxpayers who encumbered their property with a perpetual recreational trail easement after 2015. We anticipate that DOR will develop forms and guidance for this tax credit with existing staff and resources, and therefore, this bill is not expected to impact expenditures for the agency.

#### **State Revenue**

The bill adds Section 12-6-3810 to provide an income tax credit to any taxpayer who encumbers his property with a perpetual recreational trail easement. The taxpayer is allowed a one-time income tax credit equal to ten cents for each square foot of the property that is encumbered by the recreational trail easement. If the credit exceeds the taxpayer's liability, the excess may be carried forward for five tax years. The credit may be taken against individual or corporate income tax. The credit takes effect upon approval by the Governor and applies to taxpayers who encumbered their property with a perpetual recreational trail easement after 2015.

Easements may qualify as a deduction on federal income taxes, but details are not available on the returns to determine this deduction amount. The Spartanburg County Parks Department reported, however, that the county currently has approximately 3,611,520 square feet in trail easements secured on private property in recent years, equating to \$351,152 in income tax credits applicable to Spartanburg County.

Spartanburg County accounts for 2.7 percent of the total state land area<sup>3</sup>. If all areas had an equivalent number of square feet to eligible trails by area, this would equate to approximately \$13,005,000 in income tax credits for easements from 2016 to 2020. Dividing this amount by 5 yields approximately \$2,601,000 per year.

Based upon discussions with Upstate Forever, a South Carolina nonprofit conservation organization, Spartanburg County has an active conservation program and likely more areas of trail encumbrance than other areas. Therefore, for the purposes of estimating the initial impact for trail easements from 2016 to 2020, we anticipate that reducing the statewide estimate of \$13,005,000 by 50 percent to account for this difference is likely appropriate, yielding an estimate of \$6,502,000 for 2016 to 2020.

However, since there are no restrictions in the bill on who must receive the easement, it may incentivize additional encumbrances than would be anticipated otherwise in future years and may reach the estimated \$2,601,000 per year going forward. Based upon these assumptions, we estimate that the bill will reduce General Fund individual and corporate income tax revenue by a

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<sup>3</sup> [https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land\\_area.pdf](https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land_area.pdf)

total of \$9,103,000 in FY 2021-22 for encumbrances from 2016 to 2021 and \$2,601,000 per year thereafter beginning in FY 2022-23. Because the bill is effective upon approval by the Governor, if the bill were to pass prior to the end of FY 2020-21, a portion of the impact may be realized earlier than estimated.

At this time, we have contacted the S.C. Parks and Recreation Association to request additional data for other counties in the state and will update this impact if additional information is received about other counties that affects our analysis.

**Local Expenditure**

N/A

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director