



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

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.

Bill Number: H. 3791 Introduced on February 2, 2021
Author: Wooten
Subject: Police and Communities Together (PACT) Act
Requestor: House Judiciary
RFA Analyst(s): Gardner, Griffith, and Miller
Impact Date: April 2, 2021

Fiscal Impact Summary

This bill creates the “Police and Communities Together ‘PACT’ Act,” which establishes certification requirements for law enforcement officers and requires officers yet to be certified to be accompanied by a certified law enforcement officer while performing their duties. In addition, the bill expands the definition of *misconduct*, defines *chokehold or carotid chokehold*, and allows the Law Enforcement Training Council (LETC) to impose civil fines when a law enforcement agency reports the occurrence of misconduct by an officer. Further, it allows a local tax millage to be used for the purpose of improving law enforcement and emergency response, establishes a minimum annual salary for state or local full-time Class 1 law enforcement officers, provides funding for body-worn camera programming and to address matters of post-traumatic stress disorder, guarantees specific funding for the LETC in the annual general appropriations act, requires the LETC to establish minimum standards for a use-of-force continuum and establish a Compliance Division, modifies the penalty structure for law enforcement agencies found to be non-compliant, and enables the LETC to temporarily suspend the certification of every law enforcement officer employed by a non-compliant agency until compliance is achieved or a motion for injunctive relief is settled.

The State Law Enforcement Division (SLED) reports that the bill will have no expenditure impact on the agency’s General Fund, Other Funds, or Federal Funds, in that the required Class 1 law enforcement officer salary is commensurate with what the agency currently pays its Agent 1 level officers.

The bill requires the LETC to develop and implement a curriculum to address the lawful use of chokeholds and carotid holds. As the agency intends to reclassify two existing FTEs from its Mobile Training Team for this purpose, there will be no expenditure impact on the agency’s General Fund, Other Funds, and Federal Funds.

The expenditure impact of the bill is pending, contingent upon a response from the Department of Public Safety.

This bill amends the Department of Natural Resources’ (DNR) Field Training Officer program, requires additional training for existing officers, and necessitates the acquisition, maintenance, and administration of body-worn cameras. In order to fulfill the requirements enumerated in the

bill, DNR anticipates an increase in the department's recurring General Fund expenditures by \$1,019,289 for the hire of seven FTEs and associated operating costs beginning in FY 2021-22. In addition, non-recurring General Fund expenditures will increase by \$529,105 in FY 2021-22 for initial start-up and compliance costs. In total, this bill will increase DNR's expenditures by \$1,548,394 in FY 2021-22.

Section 5 of this bill will have no expenditure impact for the Workers' Compensation Commission because it does not materially alter the responsibilities of the agency. The Other Funds expenditure impact for the State Accident Fund is undetermined beginning in FY 2021-22 and is dependent upon the number of newly compensable claims granted due to this section. Additionally, the bill will result in an undetermined increase in General Fund, Other Funds, and/or Federal Funds expenditures for agencies that employ law enforcement officers. Beginning in FY 2021-22, this funding will be necessary to cover a potential increase in workers' compensation insurance premiums to offset the increase in expenditures for the State Accident Fund.

Additionally, the bill will result in an increase in local expenditures due to the potential increase in workers' compensation costs for law enforcement officers. Both the South Carolina Association of Counties and the Municipal Association of South Carolina offer workers' compensation to local governing entities.

The bill will also result in an increase in local expenditures due to the potential increase in workers' compensation costs for law enforcement officers. Both the South Carolina Association of Counties and the Municipal Association of South Carolina offer workers' compensation to local governing entities.

Explanation of Fiscal Impact

Introduced on February 2, 2021

State Expenditure

SECTION 1. This section of the bill creates the "Police and Communities Together 'PACT' Act."

SECTION 2. This section of the bill requires a law enforcement officer to complete a field training program approved by the Law Enforcement Training Council (LETC), enables a law enforcement officer who is not certified to perform his duties only while accompanied by a certified law enforcement officer, and provides that a ninety-day extension may be granted for non-certified officers who have not attained certification within the required one-year period after employment or appointment.

SECTION 3. This section of the bill specifies that the definition of *misconduct* includes the failure of an officer to intervene when observing another officer physically or psychologically abusing a prisoner or member of the public. Upon a report of misconduct by an officer, a law enforcement agency must fully cooperate with the LETC and attend any scheduled hearings.

Agencies that fail to comply are subject to a civil fine not to exceed \$1,000 per day of non-compliance.

SECTION 4. This section of the bill adds to Title 23 Section 23-1-250, which defines the term *chokehold or carotid hold* and provides that this act is only justifiable if a law enforcement officer reasonably believes that the use of deadly force is necessary to protect the life of a civilian or a law enforcement officer. Unlawful use of a chokehold or carotid hold is deemed excessive force and may result in criminal prosecution and/or disciplinary action against the law enforcement officer. The LETC must develop and implement a curriculum to address the lawful use of chokeholds and carotid holds.

SECTION 5. This section of the bill exempts law enforcement officers with an impairment causing stress, mental injury, or mental illness arising out of the course of employment without a physical injury from having to establish that the impairment occurred under extraordinary and unusual work conditions in order to be eligible for workers' compensation. This exemption applies if the impairment arises from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer's scope of work. Currently, law enforcement officers have to establish extraordinary and unusual work conditions in order to be eligible for workers' compensation for stress, mental injury, or mental illness. This exemption will result in an increase in the number of compensable workers' compensation cases relative to law enforcement officers with stress, mental injury, or mental illness.

SECTION 6. This section of the bill enables local tax millage rates to be increased for the purpose of purchasing equipment and making expenditures to improve publicly funded law enforcement and fire/rescue and emergency medical response and to comply with statutory requirements.

SECTION 7. This section of the bill requires that state or local full-time Class 1 law enforcement officers be paid 17.5% of the salary fixed for Associate Justices of the South Carolina Supreme Court. As Associate Justices are currently paid \$202,057 annually, the Class 1 salary amount would be \$35,360 per year.

SECTION 8. This section of the bill requires the General Assembly to provide at least \$250,000 in the annual general appropriations act to the State Law Enforcement Division (SLED) to address post-traumatic stress disorder resulting from law enforcement activities. SLED may engage the South Carolina Law Enforcement Assistance Program to reimburse state or local law enforcement officers who incur mental injury as a result of a critical incident, to cover out-of-pocket expenses not covered through worker's compensation claims and other insurance, and to provide services.

SECTION 9. This section of the bill requires that the annual general appropriations act include funding to cover body-worn cameras and related programming.

SECTION 10. This section of the bill requires the annual general appropriations act to, for FY 2021-22 and beyond, include funding for the LETC general fund in an amount commensurate to

general fund dollars and other funds authorized for the agency by the FY 2019-20 appropriations act. Should the LETC appropriations meet these requirements in any given fiscal year, any funds collected by the LETC must be remitted to the general fund.

SECTION 11. This section of the bill adds to Title 23 Section 23-23-85, which requires the LETC to develop policies and standards related to the use-of-force continuum and the elimination or restricted use of lethal and less than lethal options with regard to when and how to respond to active resistance. Chokeholds and carotid holds may not be considered less lethal options under the use-of-force continuum. The LETC must also develop minimum standards related to the following:

- Uniform vehicle pursuits,
- An officer's duty to intervene in the actions of other observed officers,
- Hiring and terminating practices,
- Mandatory and uniform post-basic academy field training,
- Uniform implementation and use of body-worn cameras, and
- Use of 'no knock' warrants.

The LETC may take punitive action against any non-compliant law enforcement agency and may levy civil fines not to exceed \$1,500 per violation.

SECTION 12. This section of the bill adds to Title 23 Section 23-23-160, which requires the LETC to establish a Compliance Division responsible for inspecting South Carolina law enforcement agencies at least once every three years to ensure compliance with the provisions of Section 23-23-85. Agencies that do not meet the minimum standards must apply appropriate corrective action measures within 90 days or be subject to additional penalties, not to exceed \$1,500 per violation. Agencies currently accredited by either the South Carolina Law Enforcement Accreditation Council or the Commission on Accreditation for Law Enforcement Agencies are exempt from such inspections.

SECTION 13. This section of the bill amends the civil penalty amount for a law enforcement agency that fails to comply with the provisions of Title 23, Chapter 23 (*LETC and Criminal Justice Academy*). Currently, a non-compliant law enforcement agency is subject to a civil penalty not to exceed \$1,500 per violation; under the bill, the agency will be subject to a civil penalty not to exceed \$1,000 per day the agency is not in compliance or is found to be in violation. Law enforcement agencies that have paid civil fines but remain non-compliant with the provisions of Section 23-23-85 may have the law enforcement certification of each of its officers temporarily suspended by the LETC until such time that compliance with the minimum standards is achieved or a motion for injunctive relief is settled. An officer whose certification has been suspended under this circumstance may regain his certification upon subsequent employment or appointment by a compliant law enforcement agency. This section also provides that a sheriff will no longer be responsible for payment of civil penalties imposed upon him.

SECTION 14. This section of the bill deems that the act will take effect upon approval by the Governor.

State Law Enforcement Division. This bill requires the State Law Enforcement Division (SLED) to provide a minimum salary for certain state or local law enforcement officers. Beginning in FY 2021-22, SLED must ensure that state or local full-time Class 1 law enforcement officers are paid 17.5% of the fixed salary of Associate Judges of the South Carolina Supreme Court. As the salary for an Associate Judge is currently \$202,057, the salary for a Class 1 officer will be \$35,360. SLED reports that this salary amount is commensurate with what the agency currently pays its Agent 1 level officers; therefore, there will be no expenditure impact on the agency’s General Fund, Other Funds, or Federal Funds.

Law Enforcement Training Council. This bill requires the LETC to develop and implement a curriculum to address the lawful use of chokeholds and carotid holds. The LETC indicates that it will reclassify two existing FTEs from its Mobile Training Team for this purpose. As such, there will be no expenditure impact on the agency’s General Fund, Other Funds, and Federal Funds.

Department of Public Safety. The expenditure impact of the bill is pending, contingent upon a response from the department.

Department of Natural Resources. This bill would amend DNR’s Field Training Officer program, require additional training for existing officers, and necessitate the acquisition, maintenance, and administration of body-worn cameras. In order to fulfill the requirements enumerated in this bill, DNR anticipates the need for seven FTEs, which will increase recurring General Fund expenditures by \$539,363: six Staff Sergeants, responsible for field training of all law enforcement field staff, at a salary and fringe rate of \$79,307; and one First Sergeant to administer the body-worn camera program and maintain video data at a salary and fringe rate of \$63,521. Additionally, DNR anticipates the following recurring and non-recurring operating costs:

Table 1: Estimated Recurring General Fund Expenditures, Beginning FY 2021-22

Category	Body Worn Camera Program	Field Training Officer Program	Total Estimated Cost
Contractual Services	\$370,400	\$0	\$370,400
Law Enforcement Equipment	\$3,632	\$21,792	\$25,424
Gasoline and Vehicle Maintenance	\$2,800	\$21,000	\$23,800
Office Rent	\$2,400	\$14,400	\$16,800
Workers’ Compensation	\$1,620	\$9,720	\$11,340
Tort Insurance	\$1,588	\$9,528	\$11,116
Phones	\$1,116	\$6,969	\$8,085
Travel	\$600	\$5,700	\$6,300
Vehicle Insurance	\$315	\$2,646	\$2,961
Office Supplies	\$100	\$600	\$700
Software	\$0	\$3,000	\$3,000
Total Estimated Cost	\$384,571	\$95,355	\$479,926

Notes: These estimates are provided by DNR. Office rent is based on an assumed commercial rate of \$16 per square foot. Data storage rent is for housing data servers at the State Data Center. Travel estimate includes travel for training, certifications, conferences and meetings, and field inspections. All other estimates are based on current contract and premium costs.

Table 2: Estimated Non-recurring General Fund Expenditures, FY 2021-22

Category	Body-Worn Camera Program	Field Training Officer Program	Total Estimated Cost
Body-Worn Camera Equipment	\$202,100	\$0	\$202,100
Vehicles	\$41,560	\$249,360	\$290,920
Laptop Computers	\$1,893	\$11,358	\$13,251
Desktop Computers	\$1,883	\$11,298	\$13,181
iPads	\$779	\$4,674	\$5,453
Office Furniture	\$500	\$3,000	\$3,500
MiFi Wireless Internet Initial Startup Costs	\$100	\$600	\$700
Total Estimated Cost	\$248,815	\$280,290	\$529,105

Notes: These estimates are provided by DNR. All estimates are based on current contract and premium costs.

In summary, this bill will increase DNR’s recurring General Fund expenditures by \$1,019,289 for the hire of seven FTEs and associated operating costs beginning in FY 2021-22. In addition, non-recurring General Fund expenditures will increase by \$529,105 in FY 2021-22 for initial start-up and compliance costs. In total, this bill will increase DNR’s expenditures by \$1,548,394 in FY 2021-22.

Workers’ Compensation Commission. Section 5 of the bill does not materially alter the responsibilities of the agency. Therefore, this bill will have no expenditure impact on the Workers’ Compensation Commission.

State Accident Fund. Section 5 of this bill will result in an increase in the number of compensable workers’ compensation claims. Additionally, this section will result in an increase in the cost of workers’ compensation insurance coverage, dependent upon the number of newly successful workers’ compensation claims filed by law enforcement officers whose stress or mental illness stem from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer’s scope of work.

The State Accident Fund offers workers’ compensation insurance for state agencies. Based on similar bills, Revenue and Fiscal Affairs anticipates this section will result in an increase in the number of successful workers’ compensation claims filed. This will result in an increase in Other Funds expenditure for the State Accident Fund to cover these claims. The State Accident Fund covers 7,677 law enforcement officers through various other state agencies.

Any increase in Other Funds expenditures for the State Accident Fund will be offset by an increase in workers’ compensation premiums. Those agencies that employ law enforcement

officers will have an increase in insurance premiums due to this increase in coverage. However, as the increase in the compensable claims is unknown, the increase to premiums is undetermined. Therefore, this bill will result in an increase in General Fund, Other Funds, and/or Federal Funds expenditures for those agencies employing first responders to cover the increased cost of workers' compensation insurance premiums beginning in FY 2021-22.

State Revenue

N/A

Local Expenditure

Section 5 of this bill may result in an increase in the cost of workers' compensation insurance coverage, depending upon the number of new workers' compensation claims likely to be filed by law enforcement officers whose stress or mental illness stem from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer's scope of work. Those local entities that employ law enforcement officers may see an increase in insurance premiums due to this increase in coverage. The South Carolina Association of Counties (SCAC) provides locals with workers' compensation insurance coverage through the South Carolina Counties Workers' Compensation Trust (SCCWCT). Additionally, the Municipal Association of South Carolina (MASC) offers locals workers' compensation coverage through the South Carolina Municipal Insurance Trust (SCMIT). However, not all local governing entities purchase workers' compensation insurance from these trusts; they may instead purchase coverage from the private market or other sources.

Based on responses from SCAC and MASC on similar bills, Revenue and Fiscal Affairs (RFA) anticipates this section will result in an increase of compensable workers' compensation claims, which will increase the costs to the SCCWCT and SCMIT. However, as the amount of the compensation is unknown, the increased expenditure to the Trusts is undetermined. RFA expects that any increased expenditure to the Trusts or to other providers of workers' compensation coverage will result in an increase in premiums to the local governing entities covered. Therefore, this bill will result in an undetermined increase in workers' compensation premiums for local governing entities.

RFA also received a response from the Saluda County Sheriff's Office, which reported that the implementation of the bill would result in no expenditure impact.

Local Revenue

N/A



Frank A. Rainwater, Executive Director