



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.

Bill Number:	S. 0233	Amended by the Senate on May 11, 2022
Author:	Turner	
Subject:	Property Tax	
Requestor:	Senate	
RFA Analyst(s):	Miller and Tipton	
Impact Date:	May 23, 2022	

Fiscal Impact Summary

This bill eliminates the requirement that a qualifying surviving spouse must acquire the house from the deceased spouse in order to be eligible for the property tax exemption provided pursuant to §12-37-220(B). The Revenue and Fiscal Affairs Office (RFA) anticipates that, due to the small number of properties that would become eligible for a tax exemption because of this bill, the impact to local property tax revenue will be minimal. Additionally, RFA anticipates local governing entities will increase millage, to the extent allowable, to offset any potential local property tax revenue reduction.

This bill also adds sections to permit local governments to impose a local service fee. Currently, based on the South Carolina Supreme Court's 2021 opinion in *Burns v. Greenville County Council*, many local road service fees and other similar fees were determined to be a tax that was not properly authorized pursuant to §6-1-300. Without this bill, local revenues from road service fees and other similar fees will be reduced as the fees are repealed as an unauthorized tax and potentially replaced with a local property tax. The bill requires that any property tax millage imposed to offset a road maintenance fee must be repealed before reimposing the road maintenance fee. We anticipate that the local fee revenue collected if fees are reinstated following enactment of the bill will be similar to the revenue collected prior to the Supreme Court decision.

Explanation of Fiscal Impact

Amended by the Senate on May 11, 2022

State Expenditure

N/A

State Revenue

N/A

Local Expenditure

This bill requires local governments that impose service or user fees pursuant to §6-1-300(6) to publish annually the amount collected from each fee on the county's website. RFA anticipates

that this requirement can be managed with existing staff and resources and, therefore, will have no local expenditure impact.

Local Revenue

This bill eliminates the requirement that a qualifying surviving spouse must acquire the house from the deceased spouse in order to be eligible for the property tax exemption provided pursuant to §12-37-220(B). This bill also allows an owner-occupied resident who lives on heir's property to claim a property tax exemption pursuant to §12-37-22 so long as the person does not claim the special assessment rate allowed pursuant to §12-43-220(c) on any other property beginning in tax year 2022.

Currently, §12-37-220(B)(1) grants a property tax exemption to a surviving spouse if the house was acquired from the deceased spouse, so long as all of the other requirements of §12-37-220(B) are met. This bill will allow the surviving spouse of a deceased eligible owner to qualify for the exemption even if the decedent had no ownership interest in the house, so long as the property meets all of the other requirements of §12-37-220(B), including that the house is the surviving spouse's legal residence. An eligible owner is defined as a veteran, a former law enforcement officer, or a former firefighter, who became permanently and totally disabled as a result of a service-connected disability. The definition of qualified surviving spouse also includes the spouse of a law enforcement officer, a firefighter, or a member of the armed forces of the United States who was killed in the line of duty.

RFA anticipates that, due to the small number of properties that would become eligible for a tax exemption because of this bill, the impact on local property tax revenue will be minimal. Additionally, RFA anticipates local governments will increase millage rates, to the extent allowable, to offset any local property tax revenue loss.

Additionally, this bill requires revenue generated by a service or user fee to:

- benefit the payer even if the general public also benefits,
- be used only for the specific improvement contemplated, not exceed the cost of the improvement, and
- be uniformly imposed on all payers.

This section of the bill takes effect upon approval by the Governor and applies retroactively to any service or user fee imposed after December 31, 1996.

Currently, a service or user fee must be for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee.

The South Carolina Supreme Court's 2021 opinion in *Burns v. Greenville County Council* determined that any service charges enacted after 1996 that are uniformly imposed on payers that do not benefit the payers in a manner different to the members of the general public are taxes. Pursuant to §6-1-310, local governments may not impose a new tax after December 31, 1996, unless specifically authorized by the General Assembly, unless it is an ad valorem tax. This

decision resulted in certain road maintenance fees and similar local government fees violating current statute. The Municipal Association of South Carolina (MASC) and the South Carolina Association of Counties (SCAC) report that local government fee revenue will have decreased following the Burns decision. Additionally, some local governments may have replaced a fee with a millage increase for road maintenance. The amount of the revenue reduction depends upon the number of unlawful fees that local governments currently impose. MASC indicates that the number of fees that would be deemed unlawful is currently unknown, and therefore, the local revenue impact of no legislation to the municipalities is undetermined.

The bill also stipulates that for any road maintenance fee that was repealed after June 30, 2021, and a millage increase for road maintenance was subsequently implemented, the millage increase must be repealed before the road maintenance fee is reimposed.

SCAC reports that approximately \$364,000,000 in service fees was collected statewide in FY 2020-21. SCAC further reports that road and vehicle service fees similar to the subject of the Burns decision generated approximately \$73,000,000 statewide. The number of fees that could be deemed unlawful and how many of these fees may have been replaced by a millage increase is currently unknown. Therefore, absent legislation, the potential local revenue reduction is undetermined. However, this bill is expected to enable local governments to maintain or reintroduce existing road maintenance fees.

MASC and SCAC indicate that under the provisions of this bill, local governments may collect service or user fees in the manner in which they currently operate. Additionally, any service or user fees repealed by local governments following the Burns decision would be eligible for reinstatement. According to MASC, the City of Aiken and Town of Hilton Head repealed or suspended road service fees resulting in a \$500,000 loss for the City of Aiken and \$1,000,000 loss for the Town of Hilton Head in FY 2021-22. The local revenue impact of the bill statewide is expected to be similar to the fees collected previously.

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