



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: H. 3155 Introduced on January 10, 2023
Author: Hixon
Subject: Petroleum Pipelines
Requestor: House Agriculture, Natural Resources, and Environmental Affairs
RFA Analyst(s): Wren
Impact Date: February 8, 2023 - Updated for Additional Agency Response

Fiscal Impact Summary

This bill requires the Office of Regulatory Staff (ORS) to issue a permit for the construction of any new petroleum pipeline or the extension or expansion of an existing petroleum pipeline in South Carolina. The Public Service Commission (PSC) must promulgate regulations regarding an application for the permit and must render a final written order either granting or denying such applications. The bill further requires the Department of Health and Environmental Control (DHEC) to promulgate regulations related to the use of eminent domain. Property owners may request a contested case hearing before the Administrative Law Court regarding any property to be taken by eminent domain.

This bill will increase Other Funds expenses of ORS by \$215,000 beginning in FY 2023-24 for administrative costs related to the issuance of permits and participation in proceedings regarding permits. The agency intends to request an increase in Other Funds authorization for these expenses.

This bill will increase Other Funds expenses of PSC for additional hearings regarding petroleum pipeline applications and public meetings on proposed pipeline construction. These expenses include an increase in caseload, travel, subsistence, facility rental, security, court reporter fees, vehicle rental, and gas. The total amount of expenses is undetermined and cannot be quantified until regulations have been promulgated.

The bill is not expected to have an expenditure impact on the Administrative Law Court since the agency anticipates being able to manage any increase in caseload within existing resources.

This bill will have no expenditure impact on the Department of Parks, Recreation and Tourism (PRT) or the Department of Natural Resources (DNR) since both agencies indicate that the provisions of the bill can be conducted in the normal course of business.

The expenditure impact of this bill on DHEC is undetermined as the agency is unable to estimate the impact of the new responsibilities in overseeing determinations of eminent domain. Further, DHEC currently does not have authority over eminent domain for other program areas. DHEC indicates that this responsibility generally falls under the authority of ORS and PSC.

This bill will have an undetermined impact on Other Funds revenue of PSC due to the nonrefundable application fee. Since PSC has not yet promulgated regulations related to this bill, the amount of the fee is unknown. Additionally, any Other Funds revenue pursuant to this application fee will depend on the number of applications submitted for the construction of a new petroleum pipeline. However, the fee revenue may be used to offset any administration expenses.

The bill also directs DHEC to impose a fine of \$1,000 per day to applicants who fail to provide proof of the specified insurance and bond requirements related to the construction of a new petroleum pipeline. Revenue from these fines must be placed in an account that must be immediately available for use by DHEC or other state agencies for use by the State for reimbursement to affected private landowners for any costs associated with a spill or accidental release of liquid petroleum products from a petroleum pipeline permitted pursuant to this bill. Since the number of applicants that may not provide proof of the insurance and bond requirements is unknown, the impact on Other Funds revenue of DHEC is undetermined.

The bill may increase General Fund and Other Fund insurance premium taxes for the required liability insurance. However, the amount will depend on the number of companies and policies issued and is undetermined.

This impact statement has been updated to include a response from DHEC.

Explanation of Fiscal Impact

Updated for Additional Agency Response on February 8, 2023

Introduced on January 10, 2023

State Expenditure

This bill requires ORS to issue a permit for the construction of any new petroleum pipeline or the extension or expansion of an existing petroleum pipeline in South Carolina. A permit is not required by a company to perform maintenance on an existing petroleum pipeline. An application, which must include specified information, must be made to PSC for approval of the issuance of a permit by ORS. A copy of the application must be served on ORS, DHEC, DNR, and PRT along with the applicant's filing at PSC. Upon receipt of an application, PSC must determine a date for a hearing regarding the application. The applicant, ORS, DHEC, DNR, PRT, each municipality and local government agency that received a copy of the application, and any person or nonprofit organization entitled to receive a copy of the application must be present at the proceedings of the PSC. PSC must render a final written order either granting or denying the application within 180 days of the filing date of the application. A party adversely affected by an order may apply for a rehearing within 20 days of the order.

PSC must determine the amount of insurance that the applicant must carry for the proposed petroleum pipeline. The minimum amount of insurance is \$10 million dollars per occurrence in both general liability and pollution insurance coverages. Additionally, the applicant must post a bond as determined by PSC. The applicant's failure to provide proof of the insurance and bond to DHEC and ORS by July first annually will result in a fine imposed by DHEC of \$1,000 per

day. Any fines must be placed in an account that must be immediately available for use by DHEC and other state agencies for use by the State for reimbursement to affected landowners for any costs associated with a spill or accidental release of liquid petroleum products from a petroleum pipeline pursuant to this bill.

PSC must initiate the promulgation of regulations for the purpose of enforcement and the procedures within 90 days of the effective date of the bill. The bill further allows PSC to charge a nonrefundable application fee in an amount sufficient to defray the administrative costs of the review of applications and hearings by the agency.

The bill further allows a company that has met all of the requirements of the bill and is unable to acquire the real property or interest from the owner to acquire the real property or interest by eminent domain for the purpose of the new construction or extension of a petroleum pipeline. ORS must issue a permit, as ordered by PSC, for an application for eminent domain. The application, along with specified information, must be filed with DHEC. Also, DHEC must hold public meetings regarding the company's proposed use of eminent domain and is responsible for granting or denying the use of eminent domain. Furthermore, no later than 90 days after the effective date of this bill, DHEC must initiate the promulgation of regulations regarding eminent domain.

Any company or landowner whose property is proposed to be taken by eminent domain may request a contested case hearing before the Administrative Law Court.

Office of Regulatory Staff. ORS anticipates that this bill will increase the agency's Other Funds expenses by \$215,000 beginning in FY 2023-24 for administrative costs related to the issuance of permits and participation in proceedings regarding permits. The agency intends to request an increase in Other Funds authorization for these expenses.

Public Service Commission. The bill requires PSC to promulgate regulations necessary for the enforcement of this bill and to charge a nonrefundable application fee to defray the administrative costs of the review of petroleum pipeline construction applications. PSC indicates that the agency, through the Administrative Procedures Act rulemaking process, will seek General Assembly approval of a regulation that will govern its expenses, which will be paid by the petroleum pipeline applicant. However, the agency anticipates an undetermined increase in Other Funds expenses related to additional hearings regarding petroleum pipeline applications and public meetings on proposed pipeline construction. These expenses include an increase in caseload, travel, subsistence, facility rental, security, court reporter fees, vehicle rental, and gas. The total amount of expenses is undetermined and cannot be quantified until regulations have been promulgated.

Department of Health and Environmental Control. The expenditure impact of this bill on DHEC is undetermined as the agency is unable to estimate the impact of the new responsibilities in overseeing determinations of eminent domain. Further, DHEC currently does not have authority over eminent domain for other program areas. DHEC indicates that this responsibility

generally falls under the authority of ORS and PSC. *This section of the impact statement has been updated to include a response from DHEC.*

Administrative Law Court. The Administrative Law Court indicates that unless there is a significant increase in the number of cases, the agency can manage any increase in caseloads with existing resources.

Department of Parks, Recreation and Tourism. PRT anticipates that the bill will require the agency to perform activities that can be conducted in the normal course of agency business. Therefore, the bill is not expected to have an expenditure impact on the agency.

Department of Natural Resources. DNR indicates that the bill requires the agency to perform activities that can be conducted in the normal course of agency business. Therefore, the bill will have no expenditure impact on the agency.

State Revenue

This bill permits PSC to charge a nonrefundable application fee to defray the administrative costs of the review of petroleum pipeline construction applications. Since PSC has not yet promulgated regulations related to this bill, the amount of the fee is unknown. Additionally, any Other Funds revenue pursuant to this fee will depend on the number of applications submitted for the construction of a new petroleum pipeline. Therefore, any increase in Other Funds revenue for PSC is undetermined.

The bill also directs DHEC to impose a fine of \$1,000 per day to applicants who fail to provide proof of the specified insurance and bond requirements related to the construction of a new petroleum pipeline. Revenue from these fines must be placed in an account that must be immediately available for use by DHEC or other state agencies for use by the State for reimbursement to affected private landowners for any costs associated with a spill or accidental release of liquid petroleum products from a petroleum pipeline permitted pursuant to this bill. Since the number of applicants that may not provide proof of the insurance and bond requirements is unknown, the impact on Other Funds revenue of DHEC is undetermined.

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N/A

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Department of Health and Environmental Control. The expenditure impact of this bill on DHEC is pending further review by the agency.

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Frank A. Rainwater, Executive Director