



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3514 Introduced on January 10, 2023
Author: Ott
Subject: SC Equine Advancement Act
Requestor: House Judiciary
RFA Analyst(s): Tipton and Gardner
Impact Date: March 29, 2023

Fiscal Impact Summary

This bill establishes the South Carolina Equine Commission (commission) to support the improvement and development of South Carolina's equine-related agriculture, business, and recreation through the licensure of advance deposit account wagering (ADW) applications allowing for pari-mutuel wagering on horse races. Under this bill, no more than three ADW licensees may operate in the state, and they must comply with requirements set by the commission. Additional licenses may be granted by the commission for ADW applications offering wagers on live horse racing events in the state. The bill establishes a 10 percent license fee on all earnings in the state by ADW licensees. Of the license fee revenue, 5 percent is to be retained by the commission for administrative expenses, and the remaining 95 percent of the license fees is to be distributed as grants to support the equine industry in South Carolina. The bill also establishes fines and penalties for the operation or use of an unlicensed ADW application.

This bill will have an undetermined expenditure impact on the SC Equine Commission and the Department of Revenue (DOR), as the resources needed to carry out the provisions of the bill are currently unknown. The commission may retain up to 5 percent of proceeds from the license fees on ADW licensees, estimated to be approximately between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter, to defray administrative costs. This estimate is based on an analysis of other states and may vary depending on the regulations promulgated by the commission.

This bill will have no expenditure impact on the State Treasurer's Office (STO), Judicial, the Commission on Prosecution Coordination, or the Commission on Indigent Defense, as the requirements of these agencies will be managed within existing resources.

Revenue generated for the Equine Industry Development Fund by the 10 percent license tax on ADW applications is estimated to total between \$308,200 and \$1,500,000 in FY 2023-24 and between \$385,200 and \$1,874,400 in each year thereafter. Proceeds are contingent upon takeout rates and other regulations set by the commission, and wagers placed by bettors in South Carolina. Additional revenue may be generated by other licenses granted for live horse racing events in the state as well as any other fee or charge imposed by the commission. Of the estimated revenue, 5 percent of total proceeds, or between \$15,400 and \$75,000 in FY 2023-24

and between \$19,300 and \$93,700 in each year thereafter, may be retained by the commission, and the remaining \$292,800 to \$1,424,500 in FY 2023-24 and \$366,000 to \$1,780,400 in each year thereafter must be administered by the commission as grants. This estimate is based on an analysis of other states and may vary depending on the regulations promulgated by the commission.

This bill will have an undetermined impact on General Fund revenue from fines, as well as Other Funds revenue of Judicial and any other applicable agency who would otherwise receive a distribution from fine revenue, as the number of offenses in violation of the bill that might occur in a given year is unknown.

This bill will have an undetermined local expenditure impact, as the number of inmates that will be housed in county prisons or local jails as a result of the penalties established by the bill are currently unknown. The Revenue and Fiscal Affairs Office (RFA) anticipates based on the response by Judicial that the increase in municipal and magistrates court caseload will be managed within the current budget of the court systems.

This bill will have an undetermined impact on local revenue from fines as the number of offenses in violation of the bill that might occur in a given year is unknown.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill establishes the South Carolina Equine Commission to support the improvement and development of South Carolina's equine-related agriculture, business, and recreation through the licensure of ADW applications allowing for pari-mutuel wagering on horse races. Under this bill, no more than three ADW licensees may operate in the state, and they must comply with requirements set by the commission. Additional licenses may be granted by the commission for ADW applications offering wagers on live horse racing events in the state. The bill establishes a 10 percent license fee on all earnings in the state by ADW licensees, with 5 percent of total proceeds to be retained by the commission for administrative expenses and the remainder to be administered as grants to support the equine industry in the state.

Under this bill, the commission has all power necessary to fund, operate, and administer the commission and to perform its essential duties. The bill states that the South Carolina Equine Commission will consist of the following seven commissioners:

- The Director of DOR, ex officio, or his designee, who will serve as chairman,
- Two commissioners appointed by the President of the Senate,
- Two commissioners appointed by the Speaker of the House of Representatives, and
- Two commissioners appointed by the Governor.

The President of the Senate and the Speaker of the House of Representatives may each appoint one member of the General Assembly as one of their two appointees. A member of the General Assembly will serve ex officio if appointed. The bill specifies each commissioner's term and

procedures for resolving commission vacancies. Commissioners will not receive compensation beyond normal mileage, per diem, and subsistence as provided by law for state boards, committees, and commissions. Pursuant to Proviso 117.19 of the FY 2022-23 Appropriations Act, each commissioner will receive per diem of 50, resulting in a maximum per diem expense for seven members of \$350 per commission meeting. Proviso 117.20 of the FY 2022-23 Appropriations Act sets mileage reimbursement rates applicable to state commissions equal to the standard business mileage rate as established by the Internal Revenue Service (IRS) of 65.5 cents per mile, and subsistence to be no more than \$35 per day when traveling in-state and \$50 per day when out-of-state. However, because the commission meeting schedule and thus mileage and subsistence are currently unknown, total expenses related to the commission are undetermined. All expenses of the commission are eligible for reimbursement of up to 5 percent of ADW license fee proceeds in a given fiscal year.

This bill grants the commission all power necessary to fund, operate, and administer the provisions of the bill and to perform its essential duties, including, but not limited to, making grants to finance qualified projects, establishing advisory committees, collecting fees and charges in connection with the use of a licensed horse racing ADW applications, and approve takeout rates as may be requested by the ADW licensee. This bill tasks the commission with the development and promulgation of rules, regulations, and procedures of ADW application licensure with certain requirements. Under this bill, prospective ADW licensees are required to remit to the commission a business plan with a statement of expected benefit to the state and equine industry or agribusiness, and the commission must determine whether the plan would contribute to the financial betterment of the state through tax, fee, economic impact and job creation, horse-breeding incentive programs, state horse-training centers, or equine-related instruction. ADW licenses granted by the commission for providing pari-mutuel horse race wagering may not exceed ten years.

This bill further requires the commission to establish a grant program utilizing Equine Industry Development Fund proceeds generated by the license fee on ADW licensee earnings to be administered in support of the bill's purpose of improving and developing South Carolina's equine-related agriculture, business, and recreation. The bill also specifies that in performing an essential government function, the commission is not required to pay taxes or assessments on property or income. The commission may retain up to five percent of the application and annual license fees collected for the commission's expenses, estimated to total approximately \$94,000 in FY 2023-24. See State Revenue section for explanation of potential fees. However, because total expenses of the commission are currently unknown, the expenditure impact of the commission is undetermined.

Department of Revenue. This bill states that DOR will provide administrative support to the commission or any of its divisions for functions including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support. DOR indicates that while the agency has the capability to provide support in these areas, the extent of resources needed is unknown at this time. Based on similar programs in other states, DOR may need at least 25 and as many as 50 additional employees to provide the commission with the administrative support required by the bill. DOR indicates that the

regulatory requirements of the program established by the bill may result in additional personnel and other costs, the extent of which is currently unknown. The commission may retain up to 5 percent of the application and annual license fee proceeds, which could be used to offset any expenses incurred by DOR for the administration of this bill, estimated to total approximately \$94,000 in FY 2023-24. However, because total expenses for DOR as a result of this bill are currently unknown, the expenditure impact to DOR is undetermined.

State Treasurer's Office. This bill requires the State Treasurer's Office to establish the Equine Industry Development Fund separate from the General Fund and all Other Funds in which proceeds generated by the license application and annual renewal fee on ADW applications will be deposited. This fund must be used by the commission for purposes specified by the bill, including up to 5 percent of total proceeds for the commission's administrative costs and the remaining amount to be administered as grants supporting the equine industry. The State Treasurer's Office indicates that this requirement will be managed within existing appropriations and will have no expenditure impact.

Judicial. This bill prohibits ADW applications not licensed with the commission from providing pari-mutuel wagers, and establishes a misdemeanor penalty and fine for violation of this provision. In addition, this bill prohibits pari-mutuel wagering by an individual through an unlicensed application, and establishes an additional misdemeanor penalty and fine for violators. Since the bill creates a new cause of action, there is no data with which to estimate the number of court filings. However, Judicial intends to use existing General Fund appropriations to manage any modifications in caseloads. Therefore, this bill will have no expenditure impact on Judicial.

Commission on Prosecution Coordination. This bill creates a new offense, which could result in an increase in the number of warrants that are sent to the Offices of Circuit Solicitor for review, prosecution, and disposition; however, whether an increase in warrants will result is unknown. The implementation of this bill will have no expenditure impact, as the commission expects to manage any increase in caseloads within current resources.

Commission on Indigent Defense. The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, as the department expects to manage any increase in caseloads within current resources.

State Revenue

This bill establishes the South Carolina Equine Commission to support the improvement and development of South Carolina's equine-related agriculture, business, and recreation through the licensure of ADW applications providing bettors in the state pari-mutuel wagers on horse races. Under this bill, no more than three ADW licensees may operate, and must comply with requirements set by the commission. Additional licenses may be granted by the commission for ADW applications offering wagers on live horse racing events in the state.

The funds generated must be distributed as follows:

- 95 percent of the license tax on ADW pari-mutuel wagering applications will be deposited into the Equine Industry Development Fund to provide grants for the purpose

of improving and developing South Carolina’s equine-related agriculture, business, and recreation; and

- 5 percent of the license tax on ADW pari-mutuel wagering applications may be retained by the Equine Commission for administrative expenses.

Under this bill, no more than three ADW licensees may operate, and must comply with requirements set by the commission. Additional licenses may be granted by the commission for ADW applications offering wagers on live horse racing events in the state.

The bill establishes a 10 percent license application fee on the projected annual earnings of the ADW licensee in the state during the first full year of operations, and an annual fee of 10 percent of the ADW licensee’s prior year’s earnings in the state in each year thereafter. This bill defines ADW licensee earnings as the licensee’s gross receipts from takeout on ADW wagering minus fees required to be paid by the licensee to offer races for wagering. Under the pari-mutuel wagering format, takeout is the portion of total wagers placed that the ADW application will retain for fees remitted to racetracks other required payments, and generates earnings for the ADW application. Across states with similar programs, takeout rates are established by regulatory racing or gaming agencies, and this bill similarly provides the Equine Commission with the ability to set takeout rates for ADW licensees as it deems appropriate.

The table below contains information from the Oregon Racing Commission, which requires ADW applications to register and provide financial information on the number of pari-mutuel wagers placed in a given year. Shown below are the three applications with the largest yearly volume of wagers placed, and we assume these would be the three licensees under this bill. These applications accounted for 93 percent of total ADW pari-mutuel wagers placed in 2021.

ADW Application	2020	2021
Churchill Downs Technology Initiatives Company, "Twin Spires"	\$ 2,451,519,908	\$ 2,455,848,444
ODS Technologies, "TVG"	\$ 2,460,937,900	\$ 2,351,165,177
Xpressbet, LLC	\$ 1,349,410,862	\$ 1,389,235,218
Total¹	\$6,261,868,670	\$6,196,248,839

The table below shows the total amount wagered in four states in the most recent year that data is available close to South Carolina in proximity, population, or both, where each of the three applications is legal. Notably, Kentucky is significantly higher than the other states due to the size of the equine wagering industry in the state. For this reason, we have not used Kentucky in our sample of states to project revenues, only in national calculations.

¹ <https://www.oregon.gov/racing/Pages/Advance-Deposit-Wagering.aspx>

State	Arizona ²	Kentucky ³	Virginia ⁴	West Virginia ⁵
Year	FY 2021-22	FY 2020-21	CY 2020	CY 2022
Twin Spires	\$10,537,092	\$242,321,654	\$9,025,538	\$5,934,394
TVG	\$23,858,497	\$144,325,118	\$16,744,374	\$6,699,890
Xpressbet	\$9,544,953	\$46,825,797	\$4,540,037	\$3,104,135
Total	\$43,940,542	\$433,472,569	\$30,309,949	\$15,738,419

Estimating the total amount that will be wagered in South Carolina under this bill can be done using nationwide data or that of the smaller group of similar states. Further, based on data from Arizona and Michigan that implemented the regulation of ADW applications within the last five years, we estimate that the first year of implementation will be approximately 80 percent of the amount wagered in subsequent years due to lead time on application compliance, establishment of regulations, and adoption by the public. The three ADW applications listed above are legal in up to 40 states, and all limit the use of the application to residents of those states at least 18 years or older.

According to the U.S. Census Bureau, the total 18 years and older population of states in which the three applications are legal in 2022 was 198,253,802, resulting in an average wager per legal bettor of \$31.25 based on the total wagers in 2021. Applying this metric to the estimated 18 and older population of South Carolina of approximately 4,164,800 in 2022 yields total wagers of approximately \$130,166,600. According to the U.S. Census Bureau, the total 18 and older population of Arizona, Virginia, and West Virginia in 2021 was 14,010,130, resulting in an average wager per legal bettor of \$6.42 based on the total wagers in those states in the most recent year that data is available. Applying this metric to the estimated 18 and older population of South Carolina in 2021 yields total wagers of approximately \$26,750,800. Applying the 20 percent reduction assumption in the first year yields a total handle of between \$21,400,600 and \$104,133,300 in FY 2023-24, and between \$26,750,800 and \$130,166,600 in each year thereafter.

Takeout rates vary between states in which advance deposit pari-mutuel wagering is legal, with the average rate for simple wagers of 18 percent, and the average rate for complex or exotic wagers of 25.5 percent, according to a review of regulations in place across legal states. Assuming 80 percent of all wagers are simple and 20 percent are complex or exotic, we can estimate an average takeout rate of 19.4 percent, which applied to the previously estimated total wagers of between \$21,400,600 and \$104,133,300 in FY 2023-24, and between \$26,750,800 and \$130,166,600 in each year thereafter results in possible takeout of between \$4,151,700 and \$20,201,900 in FY 2023-24 and between \$5,189,700 and \$25,252,300 in each year thereafter. Fees that ADW applications are required to remit to racetracks and other entities for providing wagers on the race vary and are currently undetermined. As an illustration, if ADW applications

² <https://gaming.az.gov/resources/reports>

³ <https://khrc.ky.gov/Documents/parimutuelJUNE2021.pdf>

⁴ <https://www.vabred.org/virginias-on-line-wagering-handle-on-horse-racing-remains-robust-through-april/>

⁵ <https://racing.wv.gov/Pages/Reports.aspx>

remit 5 percent of takeout as fees to various entities and retain 14.4 percent of total wagers as earnings under this bill, total license fee proceeds would create revenue for the Equine Industry Development Fund of between \$308,200 and \$1,500,000 in FY 2023-24 and between \$385,200 and \$1,874,400 in each year thereafter.

Of that amount, 5 percent of total proceeds, or between \$15,400 and \$75,000 in FY 2023-24 and between \$19,300 and \$93,700 in each year thereafter may be retained by the commission and the remaining \$292,800 to \$1,424,500 in FY 2023-24 and \$366,000 to \$1,780,400 in each year thereafter must be administered by the commission as grants. Proceeds are contingent upon takeout rates set by the commission, and we assume that nationwide wagers among legal bettors would be similar in South Carolina. Additional revenue may be generated by licenses granted for live horse racing events in the state as well as any other fee or charge imposed by the commission.

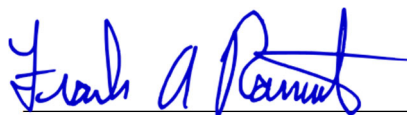
In addition, this bill prohibits ADW applications not licensed with the commission from providing pari-mutuel wagers, and establishes a misdemeanor penalty and fine for violations of this provision of up to \$5,000 and imprisonment of up to a year. Further, this bill prohibits pari-mutuel wagering by an individual through an unlicensed application and establishes a misdemeanor penalty with a fine for violators of up to \$2,000 and imprisonment of up to a year. Thus, this bill has the potential to increase General Fund, and Other Funds, and local revenue of state agencies and local governments due to the fine for offenders convicted in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact cannot be determined.

Local Expenditure

This bill may increase the number of cases heard in municipal and magistrates court for the new offenses created and may result in an increase in the number of individuals imprisoned in county prisons or municipal jails. Based on the response by Judicial, RFA anticipates that the additional caseload will be managed within the current budgets of the local court systems and will have no impact. However, as the number of inmates that will be housed in county prisons or municipal jails as a result of the penalties established by the bill are currently unknown, the local expenditure impact is undetermined.

Local Revenue

This bill has the potential to increase local revenue from fines due to the new fine for offenders convicted in circuit courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact cannot be determined.



Frank A. Rainwater, Executive Director