



# 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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<b>Bill Number:</b>	H. 3989	Introduced on February 16, 2023
<b>Author:</b>	Ott	
<b>Subject:</b>	Solar, Agricultural, Farmland and Environmental Act	
<b>Requestor:</b>	House Labor, Commerce, and Industry	
<b>RFA Analyst(s):</b>	Wren	
<b>Impact Date:</b>	April 24, 2023	

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### Fiscal Impact Summary

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill provides for the application and certificate requirements to construct a photovoltaic energy facility. Further, the bill establishes the Agricultural and Farmland Viability Protection Fund in the custody of the Department of Revenue (DOR) to be used for agricultural and farmland protection activities.

The Office of Regulatory Staff (ORS) indicates that this bill will increase Other Funds expenses of the agency by \$600,000 beginning in FY 2023-24 for 4.0 FTEs to review applications, participate in public hearings, participate in hearings regarding applications, activities to calculate and assess entities, and for ongoing miscellaneous expenses. As ORS' Other Funds are provided for by entities the agency regulates, these expenses will be offset by a charge to the audited entities. This will result in an increase in Other Funds revenue of \$600,000 to offset the expenditure.

This bill will have no expenditure impact on the Public Service Commission (PSC) since costs related to the application process for non-public utilities will be borne by the applicant. Further, public utilities regulated by PSC are assessed expenses by DOR under §58-3-100. Other responsibilities for the commission related to the bill can be managed within existing resources.

This bill will have a minimal expenditure impact on DOR to manage any additional remittance of funds to ORS, manage the reporting requirements, and manage the Agricultural and Farmland Viability Protection Fund. DOR anticipates being able to manage the expenses with existing resources.

This bill is not expected to have an expenditure impact on the Department of Health and Environmental Control (DHEC) or the Department of Parks, Recreation and Tourism (PRT) since the agencies anticipate being able to manage any expenses related to certification proceedings with existing staff and with existing appropriations.

The expenditure impact of this bill on the Department of Natural Resources (DNR) and the Department of Agriculture to be present in certification proceedings is pending, contingent upon responses from the agencies.

The expenditure impact of the bill on the Clemson University Cooperative Extension Service (Clemson Extension) to issue determinations on whether land is considered farmland for the purpose of constructing photovoltaic energy facilities is pending, contingent upon a response.

The impact on Other Funds revenue of PSC is undetermined. PSC indicates that the bill will increase Other Funds revenue of the commission if a person or entity other than a public utility that pays a license tax pursuant to §12-20-100 files an application. However, the number of applications that may be filed by a person or entity other than a public utility is unknown.

Since the number of applications and total projects costs for construction of photovoltaic energy facilities are unknown, the revenue that will be deposited into the Agricultural and Farmland Viability Protection Fund is also undetermined.

The Revenue and Fiscal Affairs Office (RFA) surveyed all forty-six county governments and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill and received a response from the MASC. No counties responded to our request for the expenditure impact of the bill. The MASC indicates that the bill will have no expenditure impact on municipal governments since any expenses to attend certification proceedings can be managed within the normal course of business.

## **Explanation of Fiscal Impact**

### **Introduced on February 16, 2023**

#### **State Expenditure**

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill requires an individual to obtain a certificate from PSC prior to constructing a photovoltaic energy facility. All land upon which an applicant seeks to construct a photovoltaic energy facility is considered farmland for purposes of this bill until the applicant has a determination in writing from the Clemson Extension that the land is not farmland. A copy of all requests for such determinations from the Clemson Extension must be provided to ORS. The bill also specifies as to when the construction of a photovoltaic energy facility is excluded from the provisions of this bill.

The bill also specifies the information that must be included in the application for the certificate to construct a photovoltaic energy facility. Additionally, each application must be accompanied by proof of service of a copy of the application on ORS, the chief executive officer of each municipality, and the head of each state and local governmental agency in the area of the county where the photovoltaic energy facility is to be located.

Additionally, upon receipt of an application, PSC must promptly establish a date for the commencement of hearings regarding the construction of a photovoltaic energy facility. The parties to a certification hearing must include the applicant, ORS, DHEC, DNR, all land-grant universities in the state, the Department of Agriculture, PRT, each municipality and governmental agency entitled to receive a copy of the application filed with PSC, and any person

entitled to receive a copy of the application. The bill also requires PSC to render a decision either granting or denying the application.

The bill also specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by ORS and PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. ORS must report all costs incurred for the investigation of the application, and PSC must report all costs incurred by the commission for adjudicating the application to DOR.

The bill further establishes the Agricultural and Farmland Viability Protection Fund, which is in the custody of DOR. If PSC approves the application, 10 percent of the total project costs must be remitted to DOR and placed in the fund. All monies deposited in the fund must be used for agricultural and farmland protection activities as follows:

- Education to impacted communities about easements, green bank opportunities, and funding sources that may be used to conserve agricultural land;
- Conservation of agricultural lands in South Carolina; or
- Direct remittance to a conservation bank.

Monies must be made payable from the fund on the audit and warrant of DOR.

**Office of Regulatory Staff.** ORS indicates that this bill will increase Other Funds expenses of the agency by \$600,000 beginning in FY 2023-24. Of this amount, \$548,000 is for 4.0 FTEs to review applications related to farmland, participate in public hearings, participate in hearings regarding applications regarding applications, and activities to calculate and assess entities. The remaining \$52,000 is for ongoing miscellaneous expenses for the new positions. As ORS' Other Funds are provided for by entities the agency regulates, these expenses will be offset by a charge to the audited entities. This will result in an increase in Other Funds revenue of \$600,000 to offset the expenditure.

**Public Service Commission.** The bill specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. PSC indicates that this bill will have no expenditure impact on the agency since costs related to the application process for non-public utilities will be borne by the applicant. Further, public utilities regulated by PSC are assessed expenses by DOR under §58-3-100. Other responsibilities related to the bill can be managed within existing resources. Therefore, this bill will have no expenditure impact on PSC.

**Department of Revenue.** DOR indicates that this bill will have a minimal impact on the agency to manage any additional remittance of funds to ORS, manage the reporting requirements, and manage the Agricultural and Farmland Viability Protection Fund. However, DOR anticipates being able to manage the expenses with existing resources.

**Department of Health and Environmental Control.** DHEC anticipates being able to manage any expenses related to certification proceedings with existing staff and within existing appropriations. Therefore, the bill is not expected to have an expenditure impact on the agency.

**Department of Parks, Recreation and Tourism.** PRT indicates that any expenses to have an agency representative attend certification proceedings can be managed with existing staff and within existing appropriations, unless it becomes a frequent occurrence. Therefore, this bill is not expected to have an expenditure impact on the agency.

**Department of Natural Resources.** The expenditure impact of this bill on DNR to participate in certification proceedings is pending, contingent upon a response.

**Department of Agriculture.** The expenditure impact of this bill on the Department of Agriculture to participate in certification proceedings is pending, contingent upon a response.

**Clemson University Cooperative Extension Service.** The expenditure impact of this bill on the Clemson Extension to issue determinations on whether land is considered farmland is pending, contingent upon a response.

### **State Revenue**

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill also provides for the application and certificate requirements to construct a photovoltaic energy facility. Additionally, the bill specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by ORS and PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. ORS must report all costs incurred for the investigation of the application, and PSC must report all costs incurred by the commission for adjudicating the application to DOR. Further, the bill establishes the Agricultural and Farmland Viability Protection Fund in the custody of DOR to be used for agricultural and farmland protection activities.

PSC indicates that the bill will increase Other Funds revenue of the commission if a person or entity other than a public utility that pays a license tax pursuant to §12-20-100 files an application. However, the number of applications that may be filed by a person or entity other than a public utility is unknown. Therefore, the impact on Other Funds revenue of PSC is undetermined.

ORS indicates that this bill will increase Other Funds expenses of the agency by \$600,000 beginning in FY 2023-24 for 4.0 FTEs to review applications, participate in public hearings, participate in hearings regarding applications, activities to calculate and assess entities, and for ongoing miscellaneous expenses for the new positions. As ORS' Other Funds are provided for by entities the agency regulates, these expenses will be offset by a charge to the audited entities. This will result in an increase in Other Funds revenue of \$600,000 to offset the expenditure.

Since the number of applications and total projects costs for construction of photovoltaic energy facilities are unknown, the revenue that will be deposited into the Agricultural and Farmland Viability Protection Fund is also undetermined.

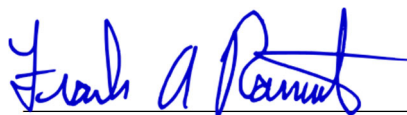
### **Local Expenditure**

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RFA surveyed all forty-six county governments and the MASC regarding the expenditure impact of this bill and received a response from the MASC. No counties responded to our request for the expenditure impact of the bill. The MASC indicates that the bill will have no expenditure impact on municipal governments since any expenses to attend certification proceedings can be managed within the normal course of business.

### **Local Revenue**

N/A



Frank A. Rainwater, Executive Director