



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. 0601 Amended by the Senate on April 25, 2023
Author: Young
Subject: State Commodity Code
Requestor: Senate Labor, Commerce, and Industry
RFA Analyst(s): Gardner
Impact Date: May 15, 2023

Fiscal Impact Summary

This bill transfers the authority to execute the State Commodity Code to the South Carolina Attorney General from the Office of Secretary of State. Currently, the Office of Secretary of State receives no General Funds for commodities and general counsel manages the responsibilities related to the execution of the State Commodity Code along with other job duties.

Judicial reports this bill may result in an increase in caseloads for general sessions courts for the Richland County Court of Common Pleas. However, Judicial intends to manage any increase in caseloads using existing appropriations and staff.

The Attorney General's Office anticipates being able to manage the additional responsibilities required to execute the State Commodity Code with existing staff and within existing appropriations. Additionally, this bill enables the Attorney General to retain the first seven hundred fifty thousand dollars in fines and penalties received as part of settlement litigation enforcement actions for State Commodity Code cases. These funds will be used to offset the costs of investigative, prosecutorial, and administrative expenses the Office of the Attorney General will incur in managing these cases. Should the Attorney General receive fines and penalties in excess of the authorized amount, those monies must be deposited into the General Fund.

This bill may increase General Fund, Other Funds, and local revenue due to the potential increase in court fees and fines, and it may increase the General Fund if excess fines and penalties are collected by the Attorney General. However, it is unknown as to whether there will be an increase in fees and fines collected by the court and whether there will be excess fines and penalties collected by the Attorney General. Therefore, the impact of the bill on the General Fund, Other Funds, and local revenue is undetermined.

Explanation of Fiscal Impact

Amended by the Senate on April 25, 2023

State Expenditure

This bill transfers the authority to execute the State Commodity Code to the South Carolina Attorney General from the Office of Secretary of State. The bill provides that an order issued by the Attorney General is effective upon the date of issuance, and such order must be served to each person subject to the order and include a statement of any civil penalty or investigatory costs sought by the Attorney General. The hearing must be held within thirty days after receipt of a request in a record from the person. In the instance a person subject to such order does not request a hearing and none is ordered by the Attorney General within thirty days of the order service date, the order—including any civil penalty or investigatory costs sought—becomes final. If a hearing is requested or ordered, the Attorney General may modify or vacate the order or extend it until final determination. A final order may not be issued unless the Attorney General makes findings of fact and conclusions of law in a record.

Civil penalties assessed for violations of the State Commodity Code may not exceed ten thousand dollars for each violation. While the Attorney General may petition the court to enforce any order brought under this section against a person who is non-compliant with the order, the court may not require the Attorney General to post a bond in an action or proceeding. The court is authorized to adjudge the person in civil contempt of the order and may impose an additional civil penalty against him in an amount not less than five hundred dollars nor more than five thousand dollars for each violation. All orders issued under this section are subject to the provisions of the Freedom of Information Act and must be published on the Attorney General's website.

In addition, the bill provides that the Attorney General may file an action in the Richland County Court of Common Pleas against a person whom the Attorney General believes has engaged, is engaging, or is about to engage in in violation of the State Commodity Code. The court is authorized to issue a permanent or temporary injunction, restraining order, or declaratory judgment; to order other appropriate or ancillary relief; or to order such other relief it considers appropriate. The Attorney General will not be required to post a bond in such actions. The bill also amends guidelines for judicial review and requires an aggrieved person to petition the court to stay the effectiveness of the Attorney General's final order, pending further review by the court and posting of appropriate bond by the aggrieved person.

This bill authorizes other appropriate prosecution, law enforcement, or licensing authorities to institute appropriate criminal proceedings against a person who willfully violates the State Commodity Code. It also provides that an offer to sell or to buy is not made in this State when a radio or television program or other electronic communication originating outside the State is received in the State. Generally, a communication of this nature is considered as originating in the State if the broadcast studio or originating source is located within the State.

The Attorney General may retain the first seven hundred fifty thousand dollars in fines and penalties received in a fiscal year in settlement litigation enforcement actions and

reimbursements of expenses to offset investigative, prosecutorial, and administrative costs of enforcing the State Commodity Code. Should the Attorney General receive fines and penalties in excess of the authorized amount, those monies must be deposited into the General Fund.

Judicial. Judicial reports that it anticipates the bill may result in an increase in caseloads for general sessions for the Richland County Court of Common Pleas, as it provides for criminal enforcement of violations of Chapter 73, Title 39 without need for an order or regulation of the Attorney General. Judicial intends to manage any increase in caseloads using existing appropriations and staff.

Office of the Attorney General. The Attorney General's Office anticipates being able to manage the additional responsibilities required to execute the State Commodity Code with existing staff and within existing appropriations. This bill enables the Attorney General to retain the first seven hundred fifty thousand dollars in fines and penalties received as part of settlement litigation enforcement actions for State Commodity Code cases. These funds will be used to offset the costs of investigative, prosecutorial, and administrative expenses the Office of the Attorney General will incur in managing these cases. Therefore, the bill will have no expenditure impact on the Office of the Attorney General. Should the Attorney General receive fines and penalties in excess of the authorized amount, those monies must be deposited into the General Fund.

State Revenue

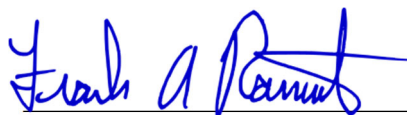
This bill may increase General Fund, Other Funds, and local revenue due to the potential increase in court fees and fines, and it may increase the General Fund if excess fines and penalties are collected by the Attorney General. However, it is unknown as to whether there will be an increase in fees and fines collected by the court and whether there will be excess fines and penalties collected by the Attorney General. Therefore, the impact of the bill on the General Fund and Other Funds is undetermined.

Local Expenditure

N/A

Local Revenue

This bill may increase local revenue due to the potential increase in court fees and fines, and it may increase the General Fund if excess fines and penalties are collected by the Attorney General. However, it is unknown as to whether there will be an increase in fees and fines collected by the court and whether there will be excess fines and penalties collected by the Attorney General. Therefore, the impact of the bill on local revenue is undetermined.



Frank A. Rainwater, Executive Director