



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0610 Introduced on March 8, 2023
Author: Cromer
Subject: Professional Counseling Compact
Requestor: Senate Labor, Commerce, and Industry
RFA Analyst(s): Wren
Impact Date: April 20, 2023

Fiscal Impact Summary

This bill allows for the entry of licensed professional counselors, which are under the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists, into the Professional Counseling Compact. The bill also specifies the purpose, functions, and operations of the Professional Counseling Compact.

The overall expenditure impact of this bill on LLR is undetermined. Neither the agency nor the board can determine the total expenditure impact since the Professional Counseling Compact nor the Counseling Compact Commission rules have been established. However, LLR may need to hire 1.0 FTE to handle the criminal background checks and additional administrative requirements related to compact participation. Salary and fringe for the new FTE would total \$50,600. Additional recurring expenses of \$2,500 for miscellaneous supplies and \$1,000 in nonrecurring expenses for computer equipment for the FTE are also expected. Therefore, Other Funds expenses of the agency may increase by at least \$54,100 in FY 2023-24. Expenses would decrease to \$53,100 each year thereafter. However, if the FTE is needed, LLR will not need to request an increase in Other Funds authorization.

This bill will have no expenditure impact on the State Law Enforcement Division (SLED) since the agency can manage any increase in criminal background searches with existing appropriations and with existing staff.

The South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill may increase General Fund revenue by at least \$5,400 for a new FTE and miscellaneous expenses in FY 2023-24. General Fund revenue would increase by at least \$5,300 each year thereafter.

The overall Other Funds revenue impact on LLR is undetermined since the board is unable to determine how many applicants will seek compact licensure, the compact privilege fee the board

will set for compact licensure, or how many instances of adverse action will occur upon entry into the compact.

Based upon a three-year historical average, SLED was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, we anticipate that Other Funds revenue of SLED will increase by an undetermined amount in the first year of the compact's existence as a result of the potential increase in background checks. There would be no increase in General Fund revenue for this portion of the bill.

Explanation of Fiscal Impact

Introduced on March 8, 2023

State Expenditure

This bill allows licensed professional counselors into the Professional Counseling Compact. The bill defines a licensed professional counselor as a counselor licensed by a member state that independently assesses, diagnoses, and treats behavioral health conditions. The compact requires member states to recognize licenses for professional counselors issued by any other member state as well as allow for the practice of telehealth between member states. The bill specifies the structure, function, powers, and duties of the Counseling Compact Commission, the collective governing instrumentality of the compact states. The commission must pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy and collect an annual assessment from each member state or impose fees on other parties. The bill also establishes the qualifications for professional counselors under the compact, including a state criminal records check, supported by fingerprints by SLED and a national criminal records check by the Federal Bureau of Investigation (FBI). The bill further provides for the compact states' rights and obligations, including those involving adverse action.

Department of Labor Licensing and Regulation. This bill authorizes the board, under the administration of LLR, to investigate and take adverse action on a professional counselor licensed under the compact and must report any adverse action taken in accordance with the rules of the commission. Any witness fees, travel expenses, mileage, and other fees related to investigation must be paid by the board, but these expenses may be recovered from the affected party as a result of litigation. Compact states are required to fully implement a state criminal records search, supported by fingerprints by SLED and a national criminal records check by the FBI in the application process. Additionally, the board must participate in the commission's coordinated licensure database by maintaining and submitting a uniform data set on all licensees in the state. Further, the board must appoint one delegate to act on behalf of the state during annual meetings of the commission and any additional meetings.

The bill allows the commission to levy and collect an annual assessment from each compact state or impose fees on other parties, but this assessment has not been determined. The bill also specifies that the commission must pay for the reasonable expenses of its establishment, organization, and ongoing activities. It is not clear at this time if the travel expenses for the state's delegate to attend commission meetings will be covered by the commission.

LLR indicates that the agency and board are unable to determine the total expenditure impact of this bill since the commission nor the compact rules have been established. However, the agency indicates that it may need to hire 1.0 FTE, an administrative assistant, to handle the criminal background check requirements and additional administrative requirements related to compact participation. Salary and fringe for the new FTE would total \$50,600. Additionally, the agency anticipates additional recurring expenses of \$2,500 for miscellaneous supplies and \$1,000 in nonrecurring expenses for computer equipment for the FTE. This would increase Other Funds expenses of the agency by at least \$54,100 in FY 2023-24. Expenses would decrease to at least \$53,100 each year thereafter. However, if the FTE is needed, the agency will not need to request an increase in Other Funds authorization.

State Law Enforcement Division. SLED indicates that any expenses associated with conducting additional criminal background searches can be managed within existing appropriations and with existing staff. We anticipate that any revenue received from the criminal background search fee that is retained by SLED will be used to offset expenses. Therefore, the bill will have no expenditure impact on the agency.

State Revenue

This bill allows for the entry of the board into the compact. The compact requires member states to recognize licenses for professional counselors issued by any other member state as well as allow for the practice of telehealth between member states. The bill specifies the structure, function, powers, and duties of the commission, the collective governing instrumentality of the compact states. The commission must pay the reasonable expenses of its establishment, organization, and ongoing activities and may levy and collect an annual assessment from each member state or impose fees on other parties. The bill also establishes the qualifications for professional counselors under the compact, including state and national criminal records checks with fingerprints by SLED and the FBI. The bill further provides for the compact states' rights and obligations, including those involving adverse action.

Department of Labor, Licensing and Regulation. This bill allows the board to charge a fee for granting an interstate compact license. Since the board is unable to determine how many applicants will seek compact licensure, the compact privilege fee the board will set for compact licensure, or how many instances of adverse action will occur upon entry into the compact, LLR is unable to estimate the expected revenue from these sources. Therefore, the Other Funds revenue impact on the agency is undetermined.

Additionally, the board falls under the Division of Professional and Occupation Licensing. Proviso 81.3 of the FY 2022-23 Appropriations Act requires LLR to remit annually to the General Fund an amount equal to 10 percent of expenditures unless the board has an overall negative ending cash balance. Although the overall expenditure impact of the bill on LLR is undetermined, this portion of the bill will increase General Fund revenue by at least \$5,400 in FY 2023-24. General Fund revenue would increase by at least \$5,300 each year thereafter.

State Law Enforcement Division. This bill may increase the number of criminal records searches that SLED is required to perform. SLED previously indicated that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED.

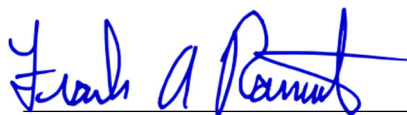
Based upon a three-year historical average, SLED previously indicated that the agency was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, we anticipate that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks. There would be no increase in General Fund revenue for this portion of the bill.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director