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. 0779 Introduced on May 4, 2023
Author:	Talley
Subject:	Energy Independence and Risk Reduction Act
Requestor:	Senate Judiciary
RFA Analyst(s):	Manic
Impact Date:	February 2, 2024

Fiscal Impact Summary

This bill enacts the Energy Independence and Risk Reduction Act. The bill reduces the number of commissioners in the Public Service Commission (PSC) from seven to five. The bill also imposes additional responsibilities on the PSC, such as reviewing annual reports from utilities for demand-side management, reviewing low-income affordability tariffs, reviewing competitive procurement for renewable energy and capacity from energy storage facilities, evaluating voluntary clean energy programs for utilities, and establishing a fuel cost recovery mechanism, among other duties. The bill specifies that the PSC must adopt rules to implement the provisions of the bill and permits the agency to employ independent outside consultants. The bill also requires the Public Utilities Review Committee to retain a third-party, independent expert consultant to conduct a comprehensive study of other states' commissions and their processes.

The bill permits an electrical utility to propose programs and customer incentives to encourage and promote demand-side management programs to reduce demand or implement a more efficient use of energy requirements from the electric grid. The Office of Regulatory Staff (ORS) must develop and publish materials to inform and educate the public on these programs and must maintain a list of approved vendors for the programs. The bill also requires the ORS, with assistance from the South Carolina Energy Office (Energy Office), to conduct a study to evaluate the potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator for energy efficiency programs and other demand-side management programs. The bill authorizes ORS to retain the services of a consultant to assist with the study. The bill further requires additional reporting requirements of the ORS.

The bill requires the Public Service Authority (PSA), along with electrical utilities, electric cooperatives, and municipally owned electric utilities to file a low-income affordability tariff following stakeholder engagement to determine criteria and design. Further, the bill requires the Secretary of State's Office to maintain any financing statement filed pursuant to ratepayer protection bonds.

PSC indicates that the reduction of two commissioners will result in a cost savings of $502,040 annually. Additionally, PSC anticipates the need for 4.0 FTEs to manage the additional responsibilities imposed by the bill. Salary and fringe for the new FTEs is expected to total $493,192, and other recurring expenses are expected to total $19,418. Nonrecurring expenses for equipment for the new FTEs are expected to total $4,234. In total, including the cost savings, Other Funds expenses of PSC are expected to increase by $14,804 in FY 2024-25 and will decrease to $10,570 each year thereafter. PSC has indicated that the agency can manage these expenses with current resources. However, as the agency gains a better understanding of the additional workload due to the bill's requirements, it anticipates needing additional staff and resources and may need to request an increase in Other Funds authorization in the future.

The bill also requires the Public Utilities Review Committee to retain a third-party, independent expert consultant to conduct a comprehensive study of other states' commissions and their processes. The third-party, independent expert consultant shall prepare and deliver this report, along with its recommendations to the General Assembly by January 1, 2025. PSC and ORS indicate that the expenditure impact of this portion of the bill is undetermined but anticipate that it will increase expenses of the Public Utilities Review Committee by at least $100,000. However, pursuant to Section 58-3-540, expenses to undertake studies shall be borne by the public utilities subject to the jurisdiction of the PSC.

ORS anticipates hiring 6.0 FTEs to manage the additional tasks required by the bill. The total recurring salary and fringe benefits for the new FTEs is expected to be $923,034 beginning in FY 2024-25. The agency also anticipates recurring miscellaneous expenses to total $13,186. Additionally, ORS anticipates the need to hire consultants to support the additional responsibilities. The agency estimates the total consulting expenses associated with these responsibilities to be $575,000, of which $100,000 will be recurring every three years pursuant to Section 58-37-20(D) of the bill. In total, the bill is expected to increase Other Funds expenses of ORS by $1,511,220. The agency will request an increase in Other Funds authorization to cover these expenses. Further, the agency also expects that the Energy Office will need to hire additional staff and will need miscellaneous operating expenses with an expected total of approximately $31,405. However, ORS indicates that the Energy Office does not receive funding from the State pursuant to Section 48-52-470 and that the additional responsibilities required by the bill for the Energy Office would be subject to the Office receiving additional funding from the U.S. Department of Energy.

The expenditure impact of this bill on PSA is pending, contingent upon more information from the agency. However, PSA indicates that the bill could have a significant impact on the agency.

This bill will have no expenditure impact on the Secretary of State's Office since the agency can manage the provisions of the bill within the normal course of business. Likewise, the bill is not expected to have an expenditure impact on Judicial since Judicial will be able to manage any potential court cases related to final orders and decisions of the PSC or in matters related to ratepayer bond issuance with existing staff and resources.

The Municipal Association of South Carolina (MASC) states that requiring municipal electric utilities to provide a low-income affordability tariff will raise expenditures of municipally owned electric utilities. However, MASC is not able to quantify the expenditure impact because Section 58-37-70 does not define the income levels to qualify for the rate reduction and due to the variability in municipal utilities' income demographics and the number of qualifying customers each utility serves. Therefore, the expenditure impact of the bill on municipal governments is undetermined.

The bill specifies that a violation of a financing order issued pursuant to this bill subjects the electrical utility that obtained the order to penalties of no more than $5,000 for each offense and to any other penalties or remedies that the PSC determines are necessary. The proposed penalty may not be recovered from the ratepayers, and PSC may not make adjustments to qualified electric charges for any such penalties or remedies. The Other Funds revenue of PSC that may be derived from these penalties is undetermined and will depend upon the number of violations.

Explanation of Fiscal Impact

Introduced on May 4, 2023
State Expenditure
This bill enacts the Energy Independence and Risk Reduction Act.

Public Service Commission. The bill reduces the number of commissioners in the PSC from seven to five. Also, the bill requires the PSC to provide rationales on its primary conclusions for verbal directives and to publish final orders and decisions after giving verbal directives. In addition, the bill requires the PSC to establish a cost recovery mechanism for electrical utilities incurring a fuel cost in the sale of electricity in order to pass through to customers 90 percent of the utility's under-recovered or over-recovered fuel costs of electricity. The bill also specifies that PSC is responsible for authorizing the financing order, as well as estimating the amount of financing costs that may be recovered through ratepayer bonds. PSC is also required to review competitive procurement of renewable energy and capacity from energy storage facilities.

The bill requires each investor-owned electrical utility to submit an annual report to the PSC describing the demand-side management programs implemented by the electrical utility in the previous year. The bill also authorizes the PSC to approve demand-side management pilot programs. The bill further requires electrical utilities, electric cooperatives, municipally owned electric utilities, and the PSA to file a low-income affordability tariff following stakeholder engagement to determine criteria and design. The tariff must be filed with the PSC and is subject to approval by the PSC. Additionally, the bill requires the PSC to consider updates to voluntary clean energy programs on an ongoing basis. Further, the bill specifies that the PSC must adopt rules to implement the provisions of the bill and permits the agency to employ independent outside consultants.

PSC indicates that the reduction of two commissioners will result in a cost savings of $502,040 annually. Additionally, PSC anticipates the need for 4.0 FTEs (a Senior Paralegal, an Attorney, an Accounting/Fiscal Manager, and an Associate Engineer) to manage the additional responsibilities imposed by the bill. Salary and fringe for the new FTEs is expected to total $493,192, and other recurring expenses are expected to total $19,418. Nonrecurring expenses for equipment for the new FTEs are expected to total $4,234. In total, including the cost savings, Other Funds expenses are expected to increase by $14,804 in FY 2024-25 and will decrease to $10,570 each year thereafter. PSC has indicated that the agency can manage these additional expenses with current resources. However, as its workload expands due to the bill's requirements, the agency may need to hire a court reporter, as well as incurring increased expenses related to IT support, higher rent (current lease expires in August 2025), and the purchase of additional video equipment. All these additional expenses will depend on the number of future public hearings and other review activities required by the bill. Once such information becomes available, PSC has indicated it may need to request an increase in Other Funds authorization.

The bill also requires the Public Utilities Review Committee to retain a third-party, independent expert consultant to conduct a comprehensive study of other states' commissions and their processes. The third-party, independent expert consultant shall prepare and deliver this report, along with its recommendations to the General Assembly by January 1, 2025. PSC and ORS indicate that the expenditure impact of this portion of the bill is undetermined but anticipate that it will increase expenses of the Public Utilities Review Committee by at least $100,000. However, pursuant to Section 58-3-540, expenses to undertake studies shall be borne by the public utilities subject to the jurisdiction of the PSC.

Office of Regulatory Staff. This bill requires electrical utilities to establish a task force to ensure a community-driven transition in the closing and decommissioning of the utilities' coal-fired generating plants. The task force must be composed of local government representation, environmental, business, community-based, and economic development organizations. Annual written status reports must be provided to the PSC and the Public Utilities Review Committee. The bill also directs the PSC to establish a fuel cost recovery mechanism that allows each electrical utility to pass through to customers 90 percent of its under recovered or over recovered fuel costs.

The bill also requires ORS to develop and publish materials intended to inform and educate the public regarding demand-side management programs. ORS must maintain a list of approved vendors who are qualified to provide services associated with these programs. Additionally, the bill requires the ORS, with assistance from the Energy Office, to conduct a study to evaluate the potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator for energy efficiency programs and other demand-side management programs. The study is subject to available funding. The bill also permits ORS to retain services of an expert or consultant with expertise and experience in the successful implementation of independently administrated, ratepayer-funded energy efficiency programs. The bill further imposes additional reporting requirements on the agency.

ORS anticipates hiring 6.0 FTEs (an Analyst, an Auditor, an Engineer, a Legal Specialist, and two leadership positions) to manage the additional tasks required by the bill. The total recurring salary and fringe benefits for the new FTEs is expected to be $923,034 beginning in FY 2024-25. ORS also anticipates that miscellaneous recurring expenses will total $13,186. Additionally, ORS anticipates the need to hire consultants to support the responsibilities related to the demand-side management programs, implementation and review of a competitive procurement program, and the study to evaluate potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator of energy efficiency programs. The agency estimates the total consulting expenses associated with these responsibilities to total $575,000, of which $100,000 will be recurring every three years pursuant to Section 58-37-20(D) in the bill. In total, the bill is expected to increase Other Funds expenses of ORS by $1,511,220. ORS will request an increase in Other Funds authorization to cover these expenses. Further, the agency also expects that the Energy Office will need to hire additional staff and will need miscellaneous operating expenses totaling approximately $31,405. However, ORS indicates that the Energy Office does not receive funding from the State pursuant to Section 48-52-470 and is entirely funded by Federal Funds. As a result, the agency indicates that the additional responsibilities required by the bill for the Energy Office would be subject to the Office receiving additional funding from the U.S. Department of Energy.

Public Service Authority. The bill requires the PSA, along with electrical utilities, electric cooperatives, and municipally owned electric utilities to file a low-income affordability tariff following stakeholder engagement to determine criteria and design. The bill also requires the PSA to include in its program for the competitive procurement of energy, capacity, ancillary services, and environmental attributes filed with the PSC for approval additional provisions for energy storage facilities and resources. Also, the bill requires the PSA to report annually to the Energy Office within the ORS on available data related to past, on-going, and projected status of demand-side management programs. The expenditure impact of this bill on the PSA is pending, contingent upon further information from the agency. However, PSA indicates that the bill could have a significant impact on the agency.

Secretary of State's Office. The bill specifies that the Secretary of State's Office is responsible for maintaining any financing statement filed to perfect any security interest attached to ratepayer bonds. The Secretary of State's Office indicates that this bill will have no expenditure impact on the agency since the filing of financing statements by electrical utilities can be done through the agency's existing online Uniform Commercial Code system.

Judicial. The bill allows the adversely affected party to petition the Supreme Court of South Carolina for judicial review in instances where the PSC denies electrical utilities the issuance of ratepayer bonds issued to finance or recover specific qualified energy costs associated with the retirement of coal-fired generation facilities or denies a request for reconsideration. The bill also specifies that if an electrical utility defaults on any required payment of charges arising from qualified electric property specified in the financing order issued by the PSC, a court, upon application by an interested party and without limiting and other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the qualified electric property to the financing parties or their assignees. The bill further specifies that if a default or termination occurs under the ratepayer bonds, on application by or on behalf of the financing parties, the Circuit Court of Richland County shall order the sequestration and payment to them of revenues arising from the qualified electric charges. Judicial indicates that this bill does not have an operational or fiscal impact. As a result, we expect Judicial will be able to manage any potential court cases related to final orders and decisions of the PSC or in matters related to ratepayer bond issuance with existing staff and resources.

State Revenue
The bill specifies that a violation of a financing order issued pursuant to this bill subjects the electrical utility that obtained the order to penalties of no more than $5,000 for each offense and to any other penalties or remedies that the PSC determines are necessary. If the PSC orders a penalty or a remedy for a violation, the monetary penalty or remedy and the costs of defending against the proposed penalty or remedy may not be recovered from the ratepayers. PSC may not make adjustments to qualified electric charges for any such penalties or remedies. The Other Funds revenue of PSC that may be derived from these penalties is undetermined and will depend upon the number of violations.

Local Expenditure
The bill requires electrical utilities, electric cooperatives, municipally owned electric utilities, and the PSA to file a low-income affordability tariff following stakeholder engagement to determine criteria and design. The MASC states that requiring municipal electric utilities to provide a low-income affordability tariff will raise expenditures of municipally owned electric utilities or shift costs to noneligible customers. However, MASC is not able to quantify the expenditure impact because bill section 58-37-70 does not define the income levels to qualify for the rate reduction. In addition, the expenditure impact will vary between municipal utilities based on their income demographics and the number of qualifying customers each utility serves. Therefore, the expenditure impact of the bill on municipal governments is undetermined.

Local Revenue
N/A

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