



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. 0993	Introduced on January 25, 2024
Author:	Setzler	
Subject:	Intercollegiate Athlete Name, Image, and Likeness Compensation	
Requestor:	Senate Education	
RFA Analyst(s):	Tipton	
Impact Date:	February 26, 2024	

Fiscal Impact Summary

This bill amends Act 35 of 2021, which established the current framework for intercollegiate athletes of state institutions of higher learning to receive compensation for use of their name, image, or likeness (NIL) as defined in the chapter. Under this bill, an institution of higher learning or a qualified representative may directly or through an agreement with a third party, identify, create, solicit, facilitate, and otherwise enable opportunities for a currently enrolled intercollegiate athlete to earn compensation for the use of their name, image, or likeness. The bill eliminates several requirements of student athletes and state institutions of higher learning throughout the NIL process and establishes a new process with various rules and regulations.

This bill's impact on state institutions of higher learning will be varied depending on the size of the institution's athletic program and its volume of NIL contracts. The University of South Carolina (USC) and Clemson University (Clemson), with the largest athletic programs in the state, as well as Lander University (Lander), Francis Marion University (FMU), and the Citadel University (Citadel) indicate that the provisions of this bill will be managed by existing athletic department staff. Coastal Carolina University (CCU) and the College of Charleston (CofC) indicate that an additional staff member with annual salary and fringe of between \$65,000 and \$69,000 may be necessary to facilitate NIL contracts under the provisions of this bill. However, we expect these expenses will be managed within the athletic departments of each respective institution and no additional General Funds will be required.

This bill will have no impact on the Commission on Higher Education (CHE) or the Department of Consumer Affairs (DCA), as both agencies indicate that any requirements of this bill will be managed with existing staff and resources.

Explanation of Fiscal Impact

Introduced on January 25, 2024

State Expenditure

This bill amends Act 35 of 2021, which established the current framework for intercollegiate athletes of state institutions of higher learning to receive compensation for use of their name, image, or likeness as defined in the chapter. Under Act 35, athletes may only receive compensation from a third party and institutions of higher learning may not directly or indirectly

compensate a current or prospective student for the use of their name, image, or likeness. Under this bill, an institution of higher learning or a qualified representative may directly or through an agreement with a third party, identify, create, solicit, facilitate, and otherwise enable opportunities for a currently enrolled intercollegiate athlete to earn compensation for the use of their name, image, or likeness. An institution may also permit the use of its trademarks or facilities to athletes with an NIL contract. The bill eliminates several requirements of student athletes as well as state institutions of higher learning in this process and prohibits institutions from receiving compensation or fees directly from an intercollegiate athlete related to the facilitation of their NIL contract.

The bill further eliminates rules prohibiting intercollegiate athletes from using their name, image, or likeness for certain businesses or products, and provides that state institutions of higher learning may not be liable for damages for actions taken in the normal course of intercollegiate athletic business that may impact an athlete's ability to earn NIL compensation. The bill states that documents maintained by institutions of higher learning related to the terms of an athlete's NIL contract may not be considered public record unless the institution is a party in the contract. The bill eliminates various other rules of intercollegiate athletes entering into NIL contracts including but not limited to their academic standing, disclosure requirements to the applicable institution, certain revocation periods, and additional limitations.

State Institutions of Higher Learning. Based on feedback from USC, Clemson, CCU, CofC, Lander, FMU, and the Citadel, this bill will have a varied impact on state institutions of higher learning. USC and Clemson, with the largest athletic programs in the state, indicate that any requirements of this bill will be managed under existing athletic department budgets by existing staff. Lander, FMU, and the Citadel also indicate that the changes made by the bill will be managed with existing staff and resources. CCU and CofC indicate that additional staff may be needed to facilitate the NIL contracts entered into by the institutions under the provisions of this bill. According to CCU, one additional FTE with annual salary and fringe of \$69,000 would be required to facilitate the university's NIL contracts. CofC indicates that the university's current volume of NIL contracts would not immediately necessitate an additional staff member; however, depending on the number of future NIL contract opportunities, an additional FTE with annual salary and fringe of \$65,000 may be required. We anticipate these expenses will be managed by each respective university's athletic department and will not require additional General Funds.

Commission on Higher Education. CHE provides oversight and regulation for state institutions of higher learning as well as non-athletic scholarships. CHE indicates that this bill does not create additional requirements for the agency, nor will it have an effect on non-athletic scholarships. Therefore, this bill will have no impact on CHE.

Department of Consumer Affairs. This bill clarifies certain requirements of agents representing athletes in NIL contracts, who must be registered with DCA. DCA indicates that any additional requirements of the agency as a result of this bill will be managed with existing staff and resources. Therefore, this bill will have no impact on DCA.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director