



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4375 Amended by the House of Representatives on January 31, 2018
Author: McCoy
Subject: Utility Plants and Projects, Rates
Requestor: Senate Judiciary
RFA Analyst(s): Wren
Impact Date: March 9, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	See Below	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	See Below	\$0
Other and Federal	See Below	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

The amended bill would have no expenditure impact on Other Funds of the Public Service Commission (PSC) as the bill requires the agency to perform activities that will be conducted within the normal course of agency business. The bill could increase Other Funds expenses of the Office of Regulatory Staff (ORS) by \$200,000 in FY 2018-19 if public utilities do not cover the expenses for witnesses and other professional expertise. Since PSC and ORS are solely operated by Other Funds, the bill would have no expenditure impact on the General Fund or Federal Funds.

This bill could reduce state sales and use tax revenue in FY 2018-19 by \$7,559,000 due to lower prices for commercial customers. Of this amount, General Fund sales and use tax revenue will be reduced by \$5,039,000, the EIA will be reduced by \$1,260,000, and the Homestead Exemption Fund will be reduced by \$1,260,000. The bill may also affect revenue collections from the corporate income tax and the corporate license tax. Since the accounting for the loss of a planned capital investment in the utility industry is extraordinarily difficult and unpredictable, the effects of the abandonment of the two nuclear reactor projects by SCANA on corporation income tax and corporate license tax is uncertain. Also, there is much discussion about the change in ownership of the public utility and the changing of utility rates. Despite these obstacles, we expect electric power will continue to be generated, and the electric power generation tax should not be affected.

The bill could reduce Other Funds revenue of ORS by an amount not covered by the public utility in FY 2018-19 if the public utility does not cover the expenses for witnesses and other

professional expertise pursuant to Section 58-4-100. The reduction in Other Funds revenue is undetermined since the amount that may not be reimbursed by the public utility is unknown.

Explanation of Fiscal Impact

Amended by the House of Representatives on January 31, 2018

State Expenditure

The amended bill adds an item to Section 58-33-220 to define the terms imprudent and prudent and to list the items PSC must consider in determining whether an action or decision is deemed prudent. Also, the amended bill deletes Articles 4 and 5, Chapter 33, Title 58, which are the Base Load Review Act and Judicial Review, respectively. However, the provisions of Articles 4 and 5, Chapter 33, Title 58 continue to apply to projects or plants begun pursuant to an order issued under Article 4, Chapter 33, Title 58, including any amendments, and must remain in effect for any matters or petitions pending before PSC. The bill adds Chapter 34 to Title 58, which applies to rates for the investor-owned utility (South Carolina Electric and Gas Company) holding the majority interest in the V.C. Summer Nuclear Reactor Units 2 and 3. Further, within five calendar days after the effective date of this bill, PSC must provide an experimental rate that customers must pay during pendency of litigation currently before PSC, or any appeal therefrom or final resolution of any action in a court of competent jurisdiction, or until replaced by an order of PSC. PSC must monitor the net effect of the experimental rate and may alter the experimental rate only if it determines that an adjustment to the experimental rate is necessary to satisfy constitutional requirements. PSC is not prohibited from adopting the experimental rate directed by the General Assembly as its own rate. The bill takes effect upon approval by the Governor and applies to all cases, proceedings, petitions, or matters pending before PSC or in any court or venue on or after the effective date of the bill.

Office of Regulatory Staff (ORS). This bill could increase Other Funds expenses by \$200,000 in FY 2018-19 for additional expert witnesses and other professional expertise. If the public utility does not cover the expenses pursuant to Section 58-4-100, the Department of Revenue will assess each public utility its portion of the expenses in proportion to its gross income for operation in the state. The Department of Revenue currently collects these assessments and pays the balance of the collections, minus the administrative costs, into the state treasury.

Public Service Commission (PSC). PSC indicates that this bill will have no expenditure impact on Other Funds as the bill requires the agency to perform activities that will be conducted within the normal course of agency business. Since PSC is solely operated by Other Funds, this bill will have no expenditure impact on the General Fund or Federal Funds.

State Revenue

The sudden abandonment of the construction of two nuclear power plants by the SCANA Corporation has introduced many uncertainties and contingencies in projecting revenues. Since the amended bill proposes reducing the electric rates that customers would pay based on their electricity usage, this bill may affect the sales tax, the corporate income tax, the corporate license tax, and the electric power tax. The following analysis estimates the potential impact on state revenues, though a final estimate may depend upon a review of all financial and economic conditions at the time of implementation.

Currently, the sales of electricity to private residences and manufacturing plants are exempt from the state sales and use tax in South Carolina. The sale of electricity to the commercial (business) sector, however, is subject to the sales and use tax. If electric rates are changed, those rate changes will be reflected in the charges for electricity on customer's monthly billing statements. The changes in commercial billing rates will be reflected ultimately in changes in state sales and use tax revenue collections.

According to the latest data from the U.S Department of Energy, Energy Information Administration, total energy expenditures in the commercial sector totaled more than \$2,600,000,000 in South Carolina. Of this amount, electricity accounts for 85 percent of all energy used in the commercial sector. Adjusting this figure by an average annual rate increase in electricity consumption of 2.4 percent per year, total electricity expenditures in the commercial sector are estimated to reach \$2,465,400,000 in FY 2018-19. Also, according to the U.S. Department of Energy, South Carolina Electric and Gas (SCE&G) commands 28.39 percent of the total electricity demand in South Carolina based upon the total amount of megawatt hours sold. Multiplying an estimated \$2,465,400,000 of electricity expenditures by the commercial sector in FY 2018-19 by 28.39 percent of the electricity market controlled by SCE&G and applying an 18 percent electricity rate reduction and a 6 percent state sales and use tax, yields a reduction of an estimated \$7,559,000 in state sales and use tax revenue in FY 2018-19. Of this amount, General Fund sales and use tax revenue will be reduced by \$5,039,000, the EIA will be reduced by \$1,260,000, and the Homestead Exemption Fund will be reduced by \$1,260,000 in FY 2018-19.

This bill may also affect revenue collections from the corporate income tax, the corporate license tax, and the electric power tax. Since the accounting for the loss of a planned capital investment in the utility industry is extraordinarily difficult and unpredictable, the effects of the abandonment of the two nuclear reactor projects by SCANA on corporation income tax and corporate license tax is uncertain. Also, there is much discussion about the change in ownership of the public utility and the changing of utility rates. Despite these obstacles, we expect electric power will continue to be generated, and the electric power generation tax should not be affected.

Additionally, PSC indicates that this bill could increase revenue from the sale of transcripts from proceedings as a result of increased interest in cases brought before the agency. This could result in an increase of approximately \$9,000 in Other Funds revenue of PSC.

This bill also creates a felony associated with the willful and intentional failure to provide relevant information or the willful and intentional misrepresentation of a matter to PSC. Anyone found guilty of this felony must be fined, in the discretion of the court, and may be found in contempt of court. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

Also, this bill creates a felony associated with the willful and intentional failure to comply with a subpoena issued by the Executive Director of ORS pursuant to Section 58-4-55. Anyone found guilty of this felony must be fined, in the discretion of the court, and may be found in contempt of court. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

This bill also adds Section 2-1-260 to provide that departments, bureaus, officers, commissions, institutions, and other state agencies, upon request, must immediately furnish any information requested to the President Pro Tempore of the Senate or the Speaker of the House of Representatives. Information that is considered exempt from public disclosure pursuant to Section 30-4-40 does not constitute a waiver of confidentiality. Further, any member of the General Assembly who obtains this information and willfully violates the confidentiality provisions must be deemed guilty of a crime of moral turpitude and upon conviction must be fined no more than \$100 or imprisoned for no more than thirty days for a first offense. For a second offense, the fine is no more than \$200 or imprisonment for no more than sixty days. For third and subsequent offenses, the fine is no more than \$300 or imprisonment for no more than ninety days. We anticipate that most of the cases for this offense will be tried in circuit court. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to determine the number of convictions that may result from this section of the bill, the revenue impact on General Fund and Other Funds revenue is undetermined.

Additionally, the amended bill adds an item to Section 58-33-220 to define the terms imprudent and prudent and to list the items PSC must consider in determining whether an action or decision is deemed prudent. Also, the bill defines fraud as the term relates to the determination of factors to consider whether an action is deemed prudent.

This bill could reduce Other Funds revenue of ORS by an amount that the agency is not reimbursed for expenses incurred to employ expert witnesses and other professional expertise. The reduction in Other Funds revenue is undetermined since the amount that may not be reimbursed by the public utility is unknown. Typically, if the public utility does not cover the expenses pursuant to Section 58-4-100, the Department of Revenue will assess each public utility its portion of the expenses in proportion to its gross income for operation in the state. The Department of Revenue currently collects these assessments and pays the balance of the collections, minus the administrative costs, into the state treasury.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director