



**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.*

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**Bill Number:** H. 3126 Amended by House Ways and Means Revenue Policy  
Legislative Subcommittee on December 7, 2021

**Author:** Jones

**Subject:** Mask Mandates

**Requestor:** House Ways and Means

**RFA Analyst(s):** Miller

**Impact Date:** December 9, 2021

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### **Fiscal Impact Summary**

This bill provides restrictions on COVID-19 vaccine mandates for the State, political subdivisions, and private employers, provides funding for testing by private employers under a federal vaccine mandate, and specifies that any employer who violates the provisions of this bill will be liable in a civil action. Revenue and Fiscal Affairs (RFA) contacted those agencies and political subdivisions that may be impacted based upon an initial review of the bill. Based upon the responses received thus far, the potential impact of the bill on expenditures and revenues is undetermined, as it will depend upon the outcome of current litigation in the federal court. Further, some agencies are still reviewing the bill. Those responses are either pending or may provide additional clarifications to the responses below.

Additionally, the bill appropriates \$10,000,000 each to the Department of Health and Environment Control (DHEC) and the Medical University of South Carolina (MUSC) from the FY 2021-22 Contingency Reserve Fund for COVID-19 testing for private employees under a federal vaccine mandate as an alternative to getting a vaccine. DHEC estimates the average cost per test is \$63.99. Therefore, the \$20,000,000 will cover approximately 313,500 COVID-19 tests. The number of tests that will be required is unknown and may also be affected by the outcome of federal litigation. The potential impact for the overall cost of testing will depend upon the number of tests needed and how the costs are divided among the agencies, private employers, health insurance, and any potential Federal Emergency Management Agency (FEMA) reimbursements.

### **Explanation of Fiscal Impact**

**Amended by House Ways and Means Revenue Policy Legislative Subcommittee on  
December 7, 2021**

#### **State Expenditure**

To determine the potential impact of this bill, RFA contacted those agencies and political subdivisions that may be impacted based upon an initial review of the bill as outlined below. However, depending upon responses, additional agencies may need to be contacted.

This bill specifies that neither the State nor any political subdivisions, including school districts, may enact a COVID-19 vaccine mandate as a condition of employment or attendance. Also, neither the State nor any political subdivision may terminate a first responder for failure to get a COVID-19 vaccine. Additionally, a private employer may not terminate or suspend an individual who does not receive a COVID-19 vaccination. If a private employer is subject to a federal vaccine mandate the employer may allow an employee the alternative choice of weekly COVID-19 testing. Further, any employer who violates the provisions of this bill will be liable in a civil action. Also, the bill directs DHEC and MUSC to partner with private employers to provide COVID-19 testing. Each of these agencies is appropriated \$10,000,000 from the FY 2021-22 Contingency Reserve Fund to fund this COVID-19 testing.

The Division of State Human Resources, within the Department of Administration, has allowed each state agency to determine whether a COVID-19 vaccine mandate is appropriate and does not have specific knowledge of which agencies, if any, have enacted a COVID-19 vaccine mandate. The agency is not aware of any current mandates by an agency, but it is currently unclear whether any agencies will be impacted as this information has not been reported.

Additionally, this bill requires DHEC and MUSC to partner with private employers to offer weekly COVID-19 testing to employees as an alternative to getting a vaccine. DHEC has offered four scenarios to estimate the potential statewide cost of this testing.

<b>Estimate Scenario</b>	<b>A - All Employers</b>	<b>B - Private Sector Only</b>	<b>C - Vaccination Surge</b>	<b>D - Vaccine Hesitancy</b>
<b>OSHA Rule Application</b>	ALL employers with 100+ employees	Private Sector employers with 100+ employees	ALL employers with 100+ employees	ALL employers with 100+ employees
<b>Calculation Method</b>	Assuming 1.2M employees in impacted organizations; applying statewide vaccination rate of 50.3%	Bureau of Labor Statistics data estimates 683,643 workers in private sector businesses with 100+ employees; applying statewide vaccination rate of 50.3%	Same calculations as A, but assumes a vaccination surge of 25% of impacted population	Based on June 2021 CDC vaccine hesitancy data; assumes remaining workers who are not "strongly hesitant" will become vaccinated
<b>Impact of Mandate on Vaccination Behavior</b>	No impact	No impact	25% surge in vaccination	CDC-identified "Movable Middle" become vaccinated
<b># of employees needing testing per week</b>	<b>596,400</b>	<b>339,771</b>	<b>447,300</b>	<b>175,000</b>
<b>Average cost per test</b>	\$63.99	\$63.99	\$63.99	\$63.99
<b>Weekly Testing Cost</b>	\$38,163,636	\$21,741,919	\$28,622,727	\$11,198,250
<b>Monthly Testing Cost</b>	\$165,248,544	\$94,142,509	\$123,936,408	\$48,488,423
<b>6-month Testing Cost</b>	\$992,254,536	\$565,289,890	\$744,190,902	\$291,154,500

DHEC used workforce numbers from SC Department of Commerce, SC Department of Employment and Workforce, and the Bureau of Labor statistics. These numbers may include federal contractors and the Centers for Medicare and Medicaid Services (CMS)-certified facilities. Additionally, the average cost per test of \$63.99 is based on actual contract pricing for polymerase chain reaction (PCR) tests and antigen tests.

The above estimates reflect total statewide testing costs. DHEC is unsure how these costs will be covered among DHEC, MUSC, any potential FEMA reimbursements, health insurance policy coverage, and the private employer. However, DHEC did note that most health insurance policies only cover the cost of testing if the insured is symptomatic, and most screening testing is denied coverage.

This bill allocates a total of \$20,000,000, or \$10,000,000 each to DHEC and MUSC, from the FY 2021-22 Contingency Reserve Fund. These funds are to be used to provide weekly COVID-19 testing for employees who work for a private employer that is subject to a federal vaccine

mandate as an alternative to the receiving the COVID-19 vaccine. DHEC estimates the average cost per test is \$63.99. Therefore, the \$20,000,000 will cover approximately 313,500 COVID-19 tests. In addition to this \$20,000,000, assuming a worst-case scenario, this bill will result in additional expenditures due to COVID-19 testing of up to \$972,000,000 in the first six months of implementation. However, it is unclear who will be responsible for these expenditures.

Also, MUSC is working to provide additional information on the potential expenditure impact due to this bill.

### **State Revenue**

This bill specifies that neither the State nor any political subdivisions, including school districts, may enact a COVID-19 vaccine mandate. Also, neither the State nor any political subdivision may terminate a first responder for failure to get a COVID-19 vaccine.

DHHS and MUSC work with CMS-certified facilities. CMS is a federal program and is currently in the process of litigating a COVID-19 vaccine mandate. If CMS's mandate goes into effect, DHHS and MUSC will be unable to meet the mandate requirements under the provisions of this bill. This bill, therefore, may result in a loss of Federal Funds from Medicare and Medicaid payments depending upon the outcome of the federal lawsuits.

Further, MUSC currently requires employees to get a COVID-19 vaccine in order to meet a federal contractual workforce requirement. This bill specifies that MUSC may no longer require COVID-19 vaccines for employees. Additionally, the federal vaccine mandates are suspended at this time due to federal litigation. If federal mandates take effect, MUSC estimates that failure to comply will potentially result in the loss of millions due to the loss of federal contracts for the research universities, including the University of South Carolina and Clemson.

### **Local Expenditure**

This bill specifies that neither the State nor any political subdivisions, including school districts, may enact a COVID-19 vaccine mandate. Also, neither the State nor any political subdivision may terminate a first responder for failure to get a COVID-19 vaccine.

The State Department of Education (SDE) stated that no school district currently requires its employees to have a COVID-19 vaccine. Therefore, this bill will have no expenditure impact for school districts.

Additionally, RFA contacted the Municipal Association of South Carolina (MASC) and the South Carolina Association of Counties (SCAC) to determine the potential fiscal impact for this bill for local governing entities. The potential impact for local government is pending, contingent upon a response from MASC and SCAC.

### **Local Revenue**

N/A



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