



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3244	Amended by the Senate on May 6, 2021
Author:	Collins	
Subject:	Employment First Initiative Act	
Requestor:	Senate	
RFA Analyst(s):	Wren and Jolliff	
Impact Date:	June 8, 2021	

Fiscal Impact Summary

This bill creates the South Carolina Employment First Oversight Commission, which must establish policies that support the competitive and integrated employment of individuals with disabilities. The bill also establishes the South Carolinians with Disabilities Self-employment Development Trust Fund, which is to be administered by the new commission, to provide grants to qualifying residents with physical or mental impairments who start, expand, or acquire a business within the state. Section 2 of the bill creates an income tax credit for contributions to the fund equal to 100 percent of the taxpayer's contribution. Section 3 of the bill allows an income tax check-off for contributions to the fund.

The overall expenditure impact of this bill is undetermined. The fund is to bear all costs and expenses of administering the program. We anticipate additional expenditures will be required to run the program, but the amount of these expenditures is undetermined because it will depend on how the commission implements the grant program. The program may have expenditures for staff and operating expenses or may contract for services. Also, the annual reporting requirements may require additional staff time or possibly expenditures by state agencies, depending upon the scope of the goals and objectives determined by the commission. There is no expected impact for the Department of Revenue (DOR) as the agency will update forms for the new income tax credit and tax return check-off with existing staff and resources.

Given the lack of sufficient data to accurately predict how many taxpayers will claim the income tax credit for contributions to the fund, we expect that the revenue impact could range from \$5,000,000 to \$10,000,000, but the amount is unknown. General Fund income tax revenue will be reduced by the amount of credits claimed in FY 2021-22, and Other Funds revenue of the South Carolinians with Disabilities Self-employment Development Trust Fund will increase by a corresponding amount. Other Funds revenue of the fund will also increase by an estimated \$29,000 in FY 2021-22 for contributions to the fund on individual income tax returns.

Explanation of Fiscal Impact

Amended by the Senate on May 6, 2021

State Expenditure

Section 1. This section of the bill as amended enacts the Employment First Initiative Act to:

- Establish policies in support of competitive integrated employment of individuals,
- Specify responsibilities of state agencies,
- Create the South Carolina Employment First Oversight Commission to oversee certain functions, and
- Establish the South Carolinians with Disabilities Self-Employment Development Trust Fund.

Sections 41-5-130 and 140 specify that all state agencies and political subdivisions of the state are encouraged to consider adopting a policy that encourages competitive integrated employment for individuals with disabilities. Additionally, all state agencies are encouraged to:

- Coordinate efforts to ensure that state programs, policies, procedures, and funding support the competitive and integrated employment of individuals with disabilities,
- Share data and information in order to track progress toward full implementation of the bill, whenever feasible, and in accordance with all applicable state and federal confidentiality laws, and
- Adopt rules and promulgate regulations to implement the provisions of the bill.

Sections 41-5-150 to 180 create the South Carolina Employment First Oversight Commission, which must establish policies that support the competitive and integrated employment of individuals with disabilities. Membership of the commission must consist of nine members appointed by the Governor. Five members must have a disability or have substantial knowledge of disability issues, and four members must be from the business community. The Governor must designate one member to convene and organize the first meeting of the commission. Members of the commission may not receive compensation, mileage, subsistence, or per diem.

Within six months after the first meeting, the commission must establish evidence-based measurable goals and objectives to encourage the implementation of the bill. Also, the commission annually must, before January first, issue a report to the Governor and members of the General Assembly that details progress toward the goals and objectives of the commission and progress toward the full implementation of the bill. The report must also identify barriers to achieving the outcomes and effective strategies and policies that can help realize the employment first initiative. All state agencies are encouraged to cooperate with the commission on the creation and dissemination of the annual report.

Section 41-5-190 establishes the South Carolinians with Disabilities Self-employment Development Trust Fund, which is to be administered by the South Carolina Employment First Commission. The fund will consist of appropriations and donations, contributions, bequests, or other gifts. Earnings and interest on this fund remain with the fund, and any balance at the end of the fiscal year carries forward in the succeeding fiscal year. The fund is to bear all costs and expenses of administering the program. The commission is to establish and administer the program that awards grants to qualifying residents with physical or mental impairments who start, expand, or acquire an in-state business.

The overall expenditure impact for the commission and the program is undetermined. It is unclear as to how the commission will choose to implement and administer the grant program.

There may be expenditures for staff and operating expenses, or the commission may choose to contract for services. As specified in the bill, the fund is to bear all costs and expenses of administering the program. Further, the scope of the goals and objectives determined by the commission will likely impact the potential expenditures. The annual reporting requirements and responsibilities for state agencies may require additional staff time or possibly expenditures, depending upon the support needed by the commission.

Sections 2 and 3. These sections of the bill create an income tax credit for contributions to the South Carolinians with Disabilities Self-employment Development Trust Fund equal to 100 percent of the taxpayer's contribution. This tax credit is non-refundable, and if the amount of the credit exceeds the taxpayer's liability for the applicable taxable year, any unused credit may be carried forward and claimed in the five succeeding taxable years. Additionally, Section 3 specifies that a taxpayer may contribute to the fund through a new check-off on a state individual income tax return. We expect DOR will incorporate necessary updates to forms and instructions for administration of the credit and the income tax return check-off during the annual revisions to income tax forms. Therefore, the bill is not expected to impact expenditures for DOR.

State Revenue

Section 2 of the bill as amended provides a non-refundable income tax credit for contributions to the South Carolinians with Disabilities Self-employment Development Trust Fund. The credit is for 100 percent of the taxpayer's contribution to the fund, and any unused credit may be carried forward for five tax years. The South Carolina Employment First Commission is to use the fund to establish and administer a program that awards grants to qualifying residents with physical or mental impairments who start, expand, or acquire an in-state business. The commission will establish the requirements for grant eligibility through regulation.

In order to estimate the potential impact of this credit, we reviewed similar credits for contributions to charitable organizations. Until 2019, contributions to the S.C. Educational Credit for Exceptional Needs Children Fund reached the maximum annually, currently set at a total of \$11,000,000 per year. However, donations did not meet the maximum in 2019 and totaled approximately \$4,500,000 that year. Changes to federal tax laws with the Tax Cuts and Jobs Act of 2017 decreased the number of taxpayers who itemized deductions and may have contributed to a reduction in charitable donations. Further, according to DOR's Revenue Ruling #21-4, Treasury Regulation 1.170A-1(h)(3), which was finalized in 2019, affects the charitable contribution deduction amount claimed on a taxpayer's South Carolina income tax return if the taxpayer receives or expects to receive a state or local tax credit in exchange for the contribution. Any reduction in a taxpayer's federal charitable contribution deduction required under Treasury Regulation 1.170A1(h)(3) will also reduce the taxpayer's South Carolina charitable contribution deduction. This provision applies to the current Conservation Credit, Community Development Credit, Industry Partnership Fund Credit, and Exceptional Needs credit and would likely apply to this proposed credit as well.

For additional comparison, Arizona provides several individual income tax credits for 100 percent of the charitable donation. One is a non-refundable tax credit of up to \$400 per tax filer (\$800 for married joint filers) for contributions to qualifying charitable organizations. In tax

year 2015, this credit totaled \$36,796,635 for the 130,419 Arizona taxpayers who claimed the tax credit. These credits have continued to grow, despite the federal tax law changes, reaching a reported total of \$66,072,217 in 2019. As of tax year 2017, the latest published by Arizona, South Carolina has about 77 percent of the number of Arizona tax returns and 90 percent of the tax liability as Arizona. The claims for a credit comparable to Arizona's could total approximately \$55,000,000 in South Carolina, but the Arizona credit is for a much broader number of charitable organizations than the proposed credit in the bill.

Another consideration is that because the tax credits for contributions to the new fund are unlimited and may be carried forward five years, contributions could be significant. Additionally, corporations, which are ineligible for the tax credits in Arizona, are eligible for this new tax credit. Given the experience in Arizona for tax credits that are limited in amount and only apply to individuals, contributions to the fund and the commensurate tax credits may be considerable.

Due to the lack of experience with a comparable tax credit, we are unable to accurately estimate how many taxpayers will claim the credit. Depending upon taxpayer interest in this program, the amount could reach \$5,000,000 to \$10,000,000. General Fund income tax revenue will be reduced by the amount of credits claimed in FY 2021-22, and Other Funds revenue of the South Carolinians with Disabilities Self-employment Development Trust Fund will increase by a corresponding amount.

Section 3 of the bill allows a taxpayer to contribute to the South Carolinians with Disabilities Self-employment Development Trust Fund on the individual income tax return. Based upon DOR's annual report for 2019-2020, a total of 30,811 taxpayers contributed a total of \$495,295 to the existing seventeen income tax elections for an average of \$29,135 per election. Based upon these figures, we estimate that this bill may increase Other Funds revenue of the fund by approximately \$29,000 per year or more beginning in FY 2021-22.

Local Expenditure

N/A

Local Revenue

N/A

Amended by the House of Representatives on March 2, 2021

State Expenditure

This bill creates the South Carolina Employment First Oversight Commission, which must establish policies that support the competitive and integrated employment of individuals with disabilities. Members of the commission may not receive compensation, mileage, subsistence, or per diem. Membership of the commission must consist of seventeen members as follows:

- One member must be appointed by the Governor from Protection and Advocacy for People with Disabilities;
- One member must be appointed by the Governor from the S.C. Developmental Disabilities Council;

- One member must be appointed by the Governor from Able S.C.;
- One member must be appointed by the Governor from the S.C. University Center for Excellence in Developmental Disabilities;
- One member must be appointed by the Governor from a cross-disability, consumer-run, private entity;
- Two members must represent the business community appointed by the Governor;
- The State Superintendent of Education or his designee, serving ex officio;
- The Director of the S.C. Department of Employment and Workforce or his designee, serving ex officio;
- The Director of the S.C. Department of Disabilities and Special Needs or his designee, serving ex officio;
- The Director of the S.C. Department of Mental Health or his designee, serving ex officio;
- The Director of the S.C. Vocational Rehabilitation Department or his designee, serving ex officio;
- The Director of the S.C. Commission for the Blind or his designee, serving ex officio; and
- Four members, each of whom has a disability or substantial knowledge of disability issues and who is employed by a governmental or private entity which provides an employment service to individuals with disabilities. Of these four members, one must be appointed by the Speaker of the House of Representatives, one must be appointed by the Minority Leader of the House of Representatives, one must be appointed by the President of the Senate, and one must be appointed by the Minority Leader of the Senate.

The Governor must designate one member to convene and organize the first meeting of the commission. All state agencies and political subdivisions of the state are encouraged to consider adopting a policy that encourages competitive integrated employment for individuals with disabilities.

Within six months after the first meeting, the commission must establish evidence-based measurable goals and objectives to encourage implementation of the bill. Also, the commission annually must, before January first, issue a report to the Governor and members of the General Assembly which details progress toward the goals and objectives of the commission and progress toward the full implementation of the bill. The report must also identify barriers to achieving the outcomes and effective strategies and policies that can help realize the employment first initiative. All state agencies are encouraged to cooperate with the commission on the creation and dissemination of the annual report.

The overall expenditure impact of this bill is undetermined since the bill does not specify a state agency to lead the commission. However, we anticipate that the organizational efforts supporting the commission and annual reporting requirements will require staff time to be supplied by participating agencies.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



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