



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

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: H. 4608 Introduced on January 11, 2022
Author: Trantham
Subject: Save Women's Sports Act
Requestor: House Education and Public Works
RFA Analyst(s): Wren, Gardner, and Tipton
Impact Date: March 17, 2022 Updated for Additional Agency Response

Fiscal Impact Summary

This bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public secondary school or public postsecondary school to be expressly designated based on biological sex. The designations are males, men, or boys; females, women, or girls; or coed or mixed. The bill further provides for the legal action that may be taken if a student or school suffers direct or indirect harm as a result of a violation of the provisions of this bill.

This bill is not expected to have an expenditure impact on the State Department of Education (SCDE) since it is anticipated that any expenses associated with legal costs can be managed within existing appropriations.

This bill will have no expenditure impact on the state agency schools since any expenses resulting from the provisions of the bill can be managed within existing appropriations.

This bill will have no expenditure impact on Judicial. Although the bill creates a new cause of action, there is no data available to estimate the number of additional filings. However, Judicial expects these changes will be minimal and can be managed within existing appropriations.

This bill will have no expenditure impact on the Commission on Higher Education (CHE) since any expenses resulting from the provisions of the bill can be managed within existing appropriations.

This bill will have an undetermined impact on state colleges and universities based on the varied responses. While some schools did not anticipate an impact, others indicate that there could be conflict between this bill and NCAA guidance and regulations, which could lead to litigation expenses or NCAA sanctions that could reduce revenue to the schools. Additionally, Lander University reports that an additional part-time employee to assist with NCAA compliance would be necessary as a result of this bill and would increase General Fund expenditures for the university by approximately \$26,000 beginning in FY 2022-23.

This bill is not expected to have an expenditure impact on local school districts. SCDE anticipates that any expenses associated with legal costs can be managed within the existing budgets of the local districts.

This bill may result in an undetermined increase in General Fund revenue, Other Funds revenue, and local revenue due to the potential increase in court fines and fees.

This fiscal impact statement has been updated to include responses from CHE and state colleges and universities.

Explanation of Fiscal Impact

**Updated for Additional Agency Response on March 17, 2022
Introduced on January 11, 2022**

State Expenditure

This bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public secondary school or public postsecondary school to be expressly designated based on biological sex. The designations are males, men, or boys; females, women, or girls; or coed or mixed. Athletic teams or sports designated for males, men, or boys may be open to students of the female sex. Athletic teams or sports designated for females, women, or girls may not be open to students of the male sex.

A student who is deprived of an athletic opportunity or suffers direct or indirect harm as a result of a violation of the provisions of the bill has a private cause of action for injunctive relief, damages, and other relief available under law against the school or public postsecondary institution. Additionally, a student who is subject to retaliation or other adverse action by a school, public postsecondary institution, or athletic association or organization as a result of reporting a violation to an employee or representative of the school, institution, or athletic association or organization, or to a state or federal agency with oversight of schools or public postsecondary education has a private cause of action for injunctive relief, damages, and other relief available under law against the school, institution, or athletic association or organization. A school or public postsecondary institution that suffers direct or indirect harm as a result of a violation of this bill has a private cause of action for injunctive relief, damages, and other relief available under law against the governmental entity, licensing or accrediting organization, or athletic association or organization. A civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney's fees, and other relief considered appropriate by the court.

State Department of Education. SCDE previously indicated on similar legislation that while the bill does not alter the duties or responsibilities of the agency, it could experience some legal costs associated with the bill. However, the agency indicated that any expenses associated with legal costs could be managed within current appropriations. Therefore, the bill is not expected to have an expenditure impact on SCDE. We will update this impact statement if the agency provides a different response.

State Agency Schools. The Governor’s School for the Arts and Humanities, the Governor’s School for Science and Mathematics, the Governor’s School for Agriculture at John de La Howe, the Wil Lou Gray Opportunity School, and the School for the Deaf and Blind indicate that this bill will have no expenditure impact since any expenses can be managed within existing appropriations.

Commission on Higher Education. CHE reports that any expenses resulting from the provisions of this bill can be managed within existing appropriations. Therefore the bill will have no expenditure impact. *This section of the fiscal impact statement has been updated to include a response from CHE.*

Colleges and Universities. SC Revenue and Fiscal Affairs (RFA) surveyed all state colleges and universities, and received responses from seven universities. Six indicate that this bill will have no expenditure impact. Lander University reports that an additional part-time employee to assist with NCAA compliance would be necessary as a result of this bill and would increase General Fund expenditures for the university by approximately \$26,000 beginning in FY 2022-23.

Additionally, two colleges and universities indicate that this bill could be in violation of NCAA guidance and regulation. The expenditure impact resulting from any litigation costs resulting from violations is undetermined. *This section of the fiscal impact statement has been updated to include responses from state colleges and universities.*

Judicial. Judicial indicates that this bill may increase the number of cases in Common Pleas and Summary Courts. Since the bill creates a new cause of action, there is no data with which to estimate the number of filings. However, Judicial intends to use existing General Fund appropriations to manage any modifications in caseloads. Therefore, this bill will have no expenditure impact on Judicial.

State Revenue

As noted above, a civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney’s fees, and other relief considered appropriate by the court.

This portion of the bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in an undetermined increase in General Fund revenue and Other Funds revenue due to the potential increase in court fines and fees.

Additionally, two colleges and universities indicate that because this bill violates NCAA guidance and regulation, the NCAA could levy sanctions or bans against the institution, which could reduce athletic revenue to the school. However, any sanctions or bans from the NCAA as

a result of this bill is currently unknown. Therefore, the revenue impact on state colleges and universities is undetermined. *This section of the fiscal impact statement has been updated to include responses from the state colleges and universities.*

Local Expenditure

As noted above, this bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public secondary school or public postsecondary school to be expressly designated based on biological sex.

SCDE previously surveyed the regular school districts and received responses from thirty-five districts. The responding districts indicated that the bill would have no expenditure impact since it does not alter the duties or responsibilities of the districts. However, SCDE indicated that there could be some expenses associated with legal costs, but expected the expenses could be managed within the existing budgets of the districts. Therefore, the bill is not expected to have an expenditure impact on local school districts. We will update this impact statement if the districts provide different responses.

Local Revenue

As previously noted, a civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney's fees, and other relief considered appropriate by the court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in local revenue due to the additional court fines and fees.

Introduced on January 11, 2022

State Expenditure

This bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public secondary school or public postsecondary school to be expressly designated based on biological sex. The designations are males, men, or boys; females, women, or girls; or coed or mixed. Athletic teams or sports designated for males, men, or boys may be open to students of the female sex. Athletic teams or sports designated for females, women, or girls may not be open to students of the male sex.

A student who is deprived of an athletic opportunity or suffers direct or indirect harm as a result of a violation of the provisions of the bill has a private cause of action for injunctive relief, damages, and other relief available under law against the school or public postsecondary institution. Additionally, a student who is subject to retaliation or other adverse action by a school, public postsecondary institution, or athletic association or organization as a result of reporting a violation to an employee or representative of the school, institution, or athletic association or organization, or to a state or federal agency with oversight of schools or public postsecondary education has a private cause of action for injunctive relief, damages, and other relief available under law against the school, institution, or athletic association or organization. A school or public postsecondary institution that suffers direct or indirect harm as a result of a violation of this bill has a private cause of action for injunctive relief, damages, and other relief

available under law against the governmental entity, licensing or accrediting organization, or athletic association or organization. A civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney's fees, and other relief considered appropriate by the court.

State Department of Education. SCDE previously indicated on similar legislation that while the bill does not alter the duties or responsibilities of the agency, it could experience some legal costs associated with the bill. However, the agency indicated that any expenses associated with legal costs could be managed within current appropriations. Therefore, the bill is not expected to have an expenditure impact on SCDE. We will update this impact statement if the agency provides a different response.

State Agency Schools. The Governor's School for the Arts and Humanities, the Governor's School for Science and Mathematics, the Governor's School for Agriculture at John de La Howe, the Wil Lou Gray Opportunity School, and the School for the Deaf and Blind indicate that this bill will have no expenditure impact since any expenses can be managed within existing appropriations.

Commission on Higher Education. The expenditure impact of this bill on CHE is pending, contingent upon a response.

Colleges and Universities. The expenditure impact of this bill on public postsecondary institutions is pending, contingent upon a response.

Judicial. Judicial indicates that this bill may increase the number of cases in Common Pleas and Summary Courts. Since the bill creates a new cause of action, there is no data with which to estimate the number of filings. However, Judicial intends to use existing General Fund appropriations to manage any modifications in caseloads. Therefore, this bill will have no expenditure impact on Judicial.

State Revenue

As noted above, a civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney's fees, and other relief considered appropriate by the court.

This portion of the bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in an undetermined increase in General Fund revenue and Other Funds revenue due to the potential increase in court fines and fees.

Local Expenditure

As noted above, this bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public secondary school or public postsecondary school to be expressly designated based on biological sex.

SCDE previously surveyed the regular school districts and received responses from thirty-five districts. The responding districts indicated that the bill would have no expenditure impact since it does not alter the duties or responsibilities of the districts. However, SCDE indicated that there could be some expenses associated with legal costs, but expected the expenses could be managed within the existing budgets of the districts. Therefore, the bill is not expected to have an expenditure impact on local school districts. We will update this impact statement if the districts provide different responses.

Local Revenue

As previously noted, a civil action brought pursuant to this bill must be initiated within two years after the harm occurred. A person or organization that prevails on a claim pursuant to the provisions of this bill is entitled to monetary damages, reasonable attorney's fees, and other relief considered appropriate by the court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in local revenue due to the additional court fines and fees.



Frank A. Rainwater, Executive Director