



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4379 Introduced on January 9, 2018
Author: McCoy
Subject: Utilities Consumer Advocate Created in the Office of the Attorney General
Requestor: House Judiciary
RFA Analyst(s): Gardner, Kokolis, and Wren
Impact Date: March 2, 2018 - Updated for Additional Agency Response

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$195,000	\$0
Other and Federal	\$349,000	\$0
Full-Time Equivalent Position(s)	5.00	0.00
State Revenue		
General Fund	Undetermined	\$0
Other and Federal	Undetermined	\$0
Local Expenditure	Undetermined	\$0
Local Revenue	Undetermined	\$0

Fiscal Impact Summary

This bill will increase General Fund expenses of the Office of Attorney General by approximately \$195,000 annually, beginning in FY 2018-19 for 1 FTE and operating expenses to support the Utilities Consumer Advocate. The bill will increase recurring Other Funds expenses of the Office of Regulatory Staff (ORS) by approximately \$329,000 beginning in FY 2018-19 for 4 FTE's and other operating expenses. Nonrecurring expenses of ORS will increase by \$20,000 in FY 2018-19 to replace the consumer services complaint-tracking database. The bill creates two new misdemeanors for which there is no data to estimate the number of convictions. However, existing law distributes revenue generated from fines, assessments, and surcharges imposed in courts among the General Fund, specified state agencies and programs, and local governments. Therefore, the impact on General Fund revenue, impact on Other Funds revenue, impact on local government expenses, and impact on local government revenue are undetermined. This impact statement has been updated to include a response from ORS and to include an analysis on the state revenue, local expenditure, and local revenue sections.

Explanation of Fiscal Impact

Updated for Additional Agency Response

Introduced on January 9, 2018

State Expenditure

This bill creates within the Office of the Attorney General the Utilities Consumer Advocate (UCA), an attorney licensed to practice in all state courts who answers to and is appointed by the Attorney General. The Office of the Attorney General must cover necessary expenses related to the UCA position from state appropriations and will set the salary for the position.

The Office of Regulatory Staff (ORS) shall assist the UCA in carrying out their duties by providing research, expertise, and any other assistance requested by the UCA. The UCA represents the public utility interests of consumers. However, a person cannot serve as the UCA if they are affiliated with a utility governed by the PSC. In contrast, a person can serve as the UCA if they are affiliated with a business governed by the PSC, provided they file an annual statement of economic interest and the business affiliation does not cause conflict in the performance of their duties. The official duties of the UCA include: representing consumer interests before state and federal regulatory agencies tasked with fixing rates or prices for public utilities; monitoring regulations, rate structures, and policies of agencies of special interest to utility consumers; conveying relevant information to the public; acting upon consumer requests concerning these matters; and providing the General Assembly with an annual report on the previous year's activities on behalf of the interests of utility consumers.

The UCA may review the records of the ORS and all other state agencies when necessary to carry out their duties. During the process of ratemaking or other PSC proceedings related to public utilities, the UCA may request the issuance of an order compelling a witness or company to produce or allow inspection of documentary evidence. The bill establishes time requirements for appeals to the issuance or non-issuance of an order. This bill provides the UCA with the power to intervene or participate in any civil proceeding involving the review or enforcement of an action believed to affect the interests of public utility consumers.

In addition to the above, the bill removes the requirement that ORS be responsible for preserving the financial integrity of the state's public utilities and the continued investment in and maintenance of utility facilities. In addition to the ORS' subpoena power, the bill also requires the agency to issue subpoenas at the request of the UCA. The executive director has the right to intervene in civil proceedings; however, the ORS will not represent the PSC when there is an appeal.

Office of the Attorney General. The bill requires the department to hire a Utilities Consumer Advocate. This position will occupy one FTE and receive an annual salary of \$130,000 with a fringe amount of \$40,000. Additional operating expenses associated with the position are expected to be \$25,000 annually. The total recurring expenditure impact on the General Fund will be \$195,000.

Office of Regulatory Staff (ORS). ORS indicates that the bill will increase Other Funds expenses by approximately \$349,000 in FY 2018-19. Recurring expenses are expected to total \$300,000 for 4 FTE's and \$29,000 for operating expenses. The 4 FTE's include an auditor, utility rates analyst, consumer services position, and a liaison with the Office of the Attorney General. These positions are needed to comply with the requirement that ORS staff must provide research, expertise, and assistance to the Utilities Consumer Advocate. Operating expenses include new computer equipment, phones, travel, training, supplies, and annual database maintenance. Nonrecurring expenses are expected to total \$20,000 to replace the consumer services complaint-tracking database. This section of the impact statement has been updated to include a response from ORS.

State Revenue

The bill prohibits the Utilities Consumer Advocate from interviewing or seeking employment with a public utility while serving as the Utilities Consumer Advocate. Additionally, the Utilities Consumer Advocate must not represent or appear on behalf of a public utility in any proceeding before the Public Service Commission in any matter for one year after serving as the Utilities Consumer Advocate. The bill creates a new misdemeanor for a person who violates the provisions of this section of the bill. Upon conviction, the individual must be fined no more than \$5,000, imprisoned for no more than one year, or both. Additionally, the bill creates a new misdemeanor for individuals that fail to provide information requested by the Executive Director of ORS, staff of ORS, or the Utilities Consumer Advocate. Upon conviction, the misdemeanor is punishable by thirty days imprisonment or a fine of \$500.

Existing law distributes revenue generated from fines, assessments, and surcharges imposed in courts among the General Fund, specified state agencies and programs, and local governments. Since data is not available to estimate the number of convictions that may result from this bill, the revenue impact on the General Fund and Other Funds is undetermined. This section of the impact statement has been added to include an analysis on the impact to state revenue.

Local Expenditure

Since the bill creates two new misdemeanors, data is not available to estimate the number of convictions that may result from the bill. The bill's effect on proceedings in court and local detention facilities is unknown. Therefore, the expenditure impact on local governments is undetermined. This section of the impact statement has been added to include an analysis on the impact to local governments.

Local Revenue

Since the bill creates two new misdemeanors, data is not available to estimate the number of convictions that may result from the bill. Existing law distributes revenue generated from fines, assessments, and surcharges imposed in courts among the General Fund, specified state agencies and programs, and local governments. The revenue impact on local governments is undetermined. This section of the impact statement has been added to include an analysis on the impact to local governments.

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performance of their duties. The official duties of the UCA include: representing consumer interests before state and federal regulatory agencies tasked with fixing rates or prices for public utilities; monitoring regulations, rate structures, and policies of agencies of special interest to utility consumers; conveying relevant information to the public; acting upon consumer requests concerning these matters; and providing the General Assembly with an annual report on the previous year's activities on behalf of the interests of utility consumers.

The UCA may review the records of the ORS and all other state agencies when necessary to carry out their duties. During the process of ratemaking or other PSC proceedings related to public utilities, the UCA may request the issuance of an order compelling a witness or company to produce or allow inspection of documentary evidence. The bill establishes time requirements for appeals to the issuance or non-issuance of an order. This bill provides the UCA with the power to intervene or participate in any civil proceeding involving the review or enforcement of an action believed to affect the interests of public utility consumers. The bill prohibits the UCA from interviewing or seeking employment with a public utility during their service as the UCA and bars the person from representing a public utility within one year after their service as the UCA. Persons violating this provision are guilty of a misdemeanor and are subject to a penalty of not more than \$5,000 or imprisonment for not more than one year, or both.

In addition to the above, the bill removes the requirement that ORS be responsible for preserving the financial integrity of the state's public utilities and the continued investment in and maintenance of utility facilities. In addition to the ORS' subpoena power, the bill also requires the agency to issue subpoenas at the request of the UCA. Entities failing to provide information requested by ORS staff or the UCA shall be guilty of a misdemeanor punishable by a \$500 fine or 30 days imprisonment. The executive director has the right to intervene in civil proceedings; however, the ORS will not represent the PSC when there is an appeal.

Office of the Attorney General. The bill requires the department to hire a Utilities Consumer Advocate. This position will occupy one FTE and receive an annual salary of \$130,000 with a fringe amount of \$40,000. Additional operating expenses associated with the position are expected to be \$25,000 annually. The total recurring expenditure impact on the General Fund will be \$195,000.

Office of Regulatory Staff. The expenditure impact of this bill is pending, contingent upon a response from the agency.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director