



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4628 Signed by Governor on May 18, 2018
Author: Martin
Subject: Telemarketing
Requestor: House of Representatives
RFA Analyst(s): Heineman and Gardner
Impact Date: June 22, 2018

Estimate of Fiscal Impact

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

Fiscal Impact Summary

The expenditure impact to the General Fund, Federal Funds, and Other Funds of the Department of Consumer Affairs (DCA) is undetermined since they do not have data to estimate the number of additional complaints that would prompt an enforcement action. There is no expenditure impact to the General Fund, Federal Funds, and Other Funds for the Attorney General’s Office (AG) since any additional cases can be managed within existing resources. There will be no expenditure impact on the General Fund, Federal Funds, or Other Funds of the Judicial Department since the department expects to manage any additional costs for additional cases within existing resources.

The revenue impact to Other Funds of the DCA is undetermined since they do not have data to estimate the number of complaints that would prompt an enforcement action or the amount of penalties that maybe collected. The revenue impact to the General Fund for the AG is undetermined since there is no data to estimate the number of cases which would yield penalties that would be paid to the General Fund.

The expenditure impact for the magistrate courts is undetermined since the claims the courts would receive are new and there is no existing data to determine the additional number of hearings or trials which may be held.

Explanation of Fiscal Impact

Signed by Governor on May 18, 2018

State Expenditure

This bill creates the South Carolina Telephone and Privacy Protection Act, which replaces the previous law dealing with the regulation of unsolicited consumer telephone calls. This bill adds definitions related to telemarketing. This bill prescribes requirements that telephone solicitors must follow when making phone calls to consumers. A consumer who is aggrieved by a violation of the parameters of this bill can initiate an action to recover losses in addition to damages in the amount of one thousand dollars for each violation.

Department of Consumer Affairs. The Department of Consumer Affairs (DCA) Administrator, upon finding a violation of the parameters of this bill, may issue an administrative order requiring the person to cease and desist, to return property or money received, and impose penalties of up to five thousand dollars for each violation. The DCA may also bring a civil action and funds received through the enforcement of this bill will be retained by the department for administration of this bill.

The department indicates investigating complaints and issuing orders will use department resources but they do not have data to estimate the number of additional complaints that would prompt an enforcement action. Therefore, the expenditure impact to the General Fund, Federal Funds, and Other Funds of the agency is undetermined.

Attorney General. The Attorney General may investigate and enforce telephone solicitation violations and may also bring action to the courts to recover damages for an aggrieved person or persons in the amount of five thousand dollars for each violation. The agency indicates they will not need to hire additional staff or secure other resources in order to manage these cases. Therefore, the bill will have no expenditure impact on the General Fund of the agency.

Judicial Department. This bill creates a new civil claim for telephone solicitation violations, which can be brought in either magistrate court or the court of common pleas, depending on the amount of damages claimed. Since this bill creates a new claim, there is no existing data to determine the additional number of hearings or trials which may be held. Should this bill result in a significant number of additional hearings or trials the department anticipates there would be an increase in the court's docket which would result in backlogged cases. However, the department expects to manage any additional costs within existing resources. As such, there will be no expenditure impact on the General Fund, Federal Funds, or Other Funds of the department.

State Revenue

Department of Consumer Affairs. Penalties received through the enforcement of this bill shall be retained by the department for administration. The department indicates they do not have data to estimate the number of complaints that would prompt an enforcement action or the amount of penalties that maybe collected. Therefore, the revenue impact to Other Funds of the agency is undetermined.

Attorney General. In this bill, if the court finds there has been a violation to the parameters a solicitor must follow, the court may award a civil penalty of not more than five thousand dollars for each violation. Penalties obtained in actions brought by the Attorney General must be paid to the General Fund. The Attorney General may recover expenses incurred by the State or local government agency in bringing cases in violation of this bill. Since this bill creates new civil claims there is no data to estimate the number of cases which would yield penalties that would be paid to the General Fund. Therefore, the revenue impact to the General Fund is undetermined.

Local Expenditure

Magistrate and Municipal Courts. This bill creates a new civil claim for telephone solicitation violations, which can be brought in either magistrate court or the court of common pleas, depending on the amount of damages claimed. While this bill does provide that these claims may be brought in the municipal court, this scenario seems unlikely, as municipal courts do not have civil jurisdiction and the amount in controversy exceeds the municipal courts \$500 fine limit. Therefore, there will be no expenditure impact to the municipal courts. Since the claims the courts would receive are new and there is no existing data to determine the additional number of hearings or trials which may be held, the expenditure impact for the magistrate courts is undetermined.

Local Revenue

N/A



Frank A. Rainwater, Executive Director