Bill Number:	H. 4064 Signed by Governor on May 6, 2021
Author:	G.M. Smith
Subject:	Manufacturing Exemption Exclusion
Requestor:	House of Representatives
RFA Analyst(s):	Miller
Impact Date:	July 15, 2021

Fiscal Impact Summary

This bill will reduce the amount of General Fund revenue transferred to the Trust Fund for Tax Relief (TFTR) beginning in FY 2021-22 because of the exclusion of manufacturing property owned or leased by public utilities from the 14.2857 percent manufacturing property tax value exemption. Absent this legislation, we estimate that transfers to the TFTR would increase by $45,768,000, in FY 2021-22, assuming 70 percent of utilities' properties qualify for the exemption.

Additionally, this bill will result in a non-recurring transfer of funds from the FY 2019-20 Contingency Reserve Fund to the TFTR totaling $67,055,000 for any needed reimbursements to counties for the exemption for Tax Years (TY) 2018, 2019, and 2020.

Further, this bill will have no net impact on local revenue, because while the local governing entities will not receive a reimbursement for the tax exemption, they will be able to collect the corresponding amount in property taxes from utilities.

Explanation of Fiscal Impact

Signed by Governor on May 6, 2021
State Expenditure
This bill specifies that property owned or leased by a public utility does not qualify for the 14.2857 percent property tax value exemption for manufacturing properties, pursuant to §12-37-220(B)(52)(a), beginning in TY 2021.

H. 3516 of 2017 enacted the 14.2857 percent property tax value exemption for manufacturing properties and is phased-in in six equal and cumulative percentage installments beginning in TY 2018. H. 3516 also established that the loss of property tax revenue due to this exemption is to be reimbursed up to $85,000,000 from the TFTR for the exemption. If the total exemption is forecasted to exceed the $85,000,000 cap, the 14.2857 percent exemption is to be proportionally reduced so as not to exceed the cap. The initial projections for reimbursement did not include manufacturing properties owned or leased by utility companies, as these properties were considered utilities, not manufacturing, for property tax purposes. However, in Duke Energy Progress. LLC v. South Carolina Department of Revenue ALJ-17-0418-CC December 21, 2020, the Administrative Law Court determined that any property that is owned or leased by an electric utility company and is used for manufacturing qualifies for the 14.2857 percent manufacturing property tax value exemption. There is additional ongoing litigation that could alter the initial findings of this case, but for the purposes of this fiscal impact statement, RFA has relied on the initial findings of the Administrative Law Court.

The addition of utility manufacturing property tax to the exemption will impact the reimbursements for the past three tax years, 2018, 2019, and 2020, as well as going forward. Based on data from DOR and our projections, the following table displays the assessed value of manufacturing property and utility property.

ASSESSED VALUE BY PROPERTY TYPE		
	Manufacturing	Utility
TY 2018	$828,495,413	$1,924,538,353
TY 2019	$856,692,602	$1,890,492,751
TY 2020*	$875,501,990	$1,890,492,751
TY 2021*	$894,724,353	$1,890,492,751
TY 2022*	$914,368,459	$1,890,492,751
TY 2023*	$934,444,474	$1,890,492,751
(estimate based on projected growth rates)*		

As seen in the chart above, the assessed value for utilities statewide is more than double the assessed value for manufacturing and, therefore, could have a significant impact on local property tax revenue and the reimbursement, relative to the current forecast for this exemption. However, the amount of utilities' assessed value that will be eligible for the exemption has yet to be determined. The following table displays the potential increased exemption from local property tax revenue based on how much of the electric utilities' property value is subject to the exemption.

ESTIMATED REDUCTION OF LOCAL PROPERTY TAX REVENUE Depending on the Percentage of Electric Utilities Property Exempt						
	TY 2018	TY 2019	TY 2020	TY 2021	TY 2022	TY 2023
40%	$6,348,000	$12,614,000	$19,356,000	$26,153,000	$33,116,000	$40,256,000
50%	$7,935,000	$15,767,000	$24,195,000	$32,691,000	$41,396,000	$50,320,000
60%	$9,522,000	$18,920,000	$29,034,000	$39,230,000	$49,675,000	$60,385,000
70%	$11,108,000	$22,074,000	$33,873,000	$45,768,000	$57,954,000	$70,449,000
80%	$12,695,000	$25,227,000	$38,712,000	$52,306,000	$66,233,000	$80,513,000

For budgetary purposes, we estimate that approximately 70 percent of the electric utilities' property will qualify for the exemption. The following table displays the current estimated reimbursement for the 14.2857 percent property tax value exemption excluding the manufacturing portion of utilities properties based on the Board of Economic Advisors' forecast as of November 10, 2020, the additional estimated reimbursement for utilities based on a 70 percent utility property exemption, and the combined total exemption.

ESTIMATED NEW TOTAL STATE REIMBURSEMENT Assuming 70 Percent Utility Property Exempted			
	Current Forecasted Reimbursement	Estimated 70% Utility Property Exemption	Estimated Total Reimbursement
TY 2018	$6,477,000	$11,108,000	$17,585,000
TY 2019	$13,920,000	$22,074,000	$35,994,000
TY 2020	$19,445,000	$33,873,000	$53,319,000
TY 2021	$33,366,000	$45,768,000	$79,134,000
TY 2022	$39,843,000	$57,954,000	$97,797,000
TY 2023	$46,320,000	$70,449,000	$116,768,000

Based on this estimate, the TFTR will need additional funding of $67,055,000 to reimburse counties for the decreased property tax revenue for TYs 2018, 2019, and 2020. This bill specifies that $67,055,000 is to be transferred from the FY 2019-20 Contingency Reserve Fund to the TFTR for any needed reimbursements to counties for the exemption for Tax Years (TY) 2018, 2019, and 2020.

State Revenue
N/A

Local Expenditure
N/A

Local Revenue
This bill specifies that property owned or leased by a public utility does not qualify for the 14.2857 percent property tax value exemption for manufacturing properties, pursuant to §12-37-220(B)(52)(a), beginning in TY 2021. As a result of the determination by the Administrative Law Court, counties will have to provide a refund to manufacturing property eligible for the exemption and receive a reimbursement from the TFTR for TYs 2018, 2019, and 2020. However, there is pending litigation that could alter the determination of the Administrative Law Court.

Some counties, like Oconee discussed below, may have preemptively allowed utilities to apply some discount. In this case, the county will still receive the full reimbursement, but may or may not need to provide a refund, depending upon the final determination of eligible property according to DOR and any potential pending litigation, relative to the preemptive discount allowed. Additionally, absent this legislation, counties would reduce property taxes assessed by the exemption for utility property used in manufacturing beginning with TY 2021 and be reimbursed by the state. However, under this bill, local governments will assess the full amount of utility property taxes without regard to the exemption.

Further, Revenue and Fiscal Affairs contacted Oconee County, where a large portion of Duke is subject to property tax, to discuss the impact of the inclusion of electric utilities' manufacturing property in the exemption. Oconee adjusted the property tax assessment for Duke in recent years pending the outcome of the litigation. It is unclear whether any other counties took similar actions.

The timing of the refunds and reimbursements for TY 2018, 2019, and 2020 will depend on when DOR provides the new assessments for those tax years to determine the exempt amount and enable counties to calculate potential refunds and any further litigation. The exempted amount will be reimbursed by the state. Therefore, while there may be timing issues, local property tax revenue reductions in TYs 2018, 2019, and 2020 due to this exemption will be offset by reimbursements. Additionally, beginning in TY 2021, due to this bill, local governing entities will not receive a reimbursement for the tax exemption for utilities' manufacturing properties, but they will be able to collect the corresponding amount in property taxes from utilities, as the exemption will no longer apply. Therefore, this bill would have no net impact on local revenue.

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