



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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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:	S. 0531	Amended by Senate Education on March 23, 2022
Author:	Cash	
Subject:	Save Women's Sports Act	
Requestor:	Senate Education	
RFA Analyst(s):	Wren and Tipton	
Impact Date:	April 6, 2022	

Fiscal Impact Summary

This amended bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public elementary school, a public secondary school, or public postsecondary institution to be expressly designated based on biological sex at birth. The amended 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 the provisions of this bill. A private school or private institution sponsoring an athletic team or sport in which its students or teams compete against a public school or institution must also comply with this bill for the applicable team or sport.

This impact statement is based on previous responses on similar legislation for all agencies, the public colleges and universities, and the local school districts. We will update this impact statement as necessary if we receive different responses regarding this amended bill.

This amended 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 amended bill is not expected to have an expenditure impact on the state agency schools since any expenses resulting from the provisions of the bill can be managed within existing appropriations.

This amended bill is not expected to have an 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 amended bill is not expected to have an 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 amended bill will have an undetermined impact on public state colleges and universities based on the varied responses received on similar legislation. While some schools did not anticipate an impact on similar legislation, others indicated 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 reported that an additional part-time employee to assist with NCAA compliance would be necessary as a result of the legislation and would increase General Fund expenditures for the university by approximately \$26,000 beginning in FY 2022-23.

This bill as amended further requires private colleges or universities sponsoring an athletic team or sport in which its students or teams compete against a public college or university to comply with the provisions of the bill for the applicable team or sport. Based on responses from public institutions, private schools may lose athletic revenue if they are unable to compete in certain state sponsored athletic events. Of the 21 private colleges or universities in the state, 16 have Division I, II, or III athletic programs and compete against public schools.

This amended 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 amended 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.

Explanation of Fiscal Impact

Amended by Senate Education on March 23, 2022

State Expenditure

This amended bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public elementary school, a public secondary school, or public postsecondary institution to be expressly designated based on biological sex at birth. 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 private school or private institution sponsoring an athletic team or sport in which its students or teams compete against a public school or institution must also comply with this section for the applicable team or sport.

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 postsecondary institution. Additionally, a student who is subject to retaliation or other adverse action by a school, 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 legislation did not alter the duties or responsibilities of the agency, it could experience some legal costs associated with the legislation. However, the agency indicated that any expenses associated with legal costs could be managed within current appropriations. Based on the response from similar legislation, we do not anticipate that this amended bill will have an expenditure impact on SCDE.

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 previously indicated that similar legislation would have no expenditure impact since any expenses could be managed within existing appropriations.

Commission on Higher Education. CHE previously reported on similar legislation that any expenses could be managed within existing appropriations. Based on this response, we do not anticipate that this amended bill will have an expenditure impact on the agency.

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

Additionally, two public colleges and universities indicated that similar legislation could be in violation of NCAA guidance and regulation. The expenditure impact resulting from any litigation costs resulting from violations is undetermined. Further, based on responses from public institutions, private schools may encounter similar problems and could experience an undetermined increase in expenses for litigation costs as well.

Judicial. Judicial previously indicated that similar legislation may increase the number of cases in Common Pleas and Summary Courts. Since the legislation created a new cause of action, there is no data with which to estimate the number of filings. However, Judicial intended to use existing General Fund appropriations to manage any modifications in caseloads. Based on the previous response, we do not anticipate that this amended bill will have an 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 amended 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, RFA anticipates this amended 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 public colleges and universities previously indicated on similar legislation that because the legislation 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 bill as amended further requires private colleges or universities sponsoring an athletic team or sport in which its students or teams compete against a public college or university to comply with the provisions of the bill for the applicable team or sport. Based on responses from public institutions, private schools may lose athletic revenue if they are unable to compete in certain state sponsored athletic events. Of the 21 private colleges or universities in the state, 16 have Division I, II, or III athletic programs and compete against public schools.

Local Expenditure

As noted above, this amended 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 on similar legislation and received responses from thirty-five districts. The responding districts indicated that the legislation 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. Based on this previous response, we do not anticipate that this amended bill will have an expenditure impact on local school districts.

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 amended bill may result in an undetermined increase in local revenue due to the additional court fines and fees.

Introduced on February 9, 2021

State Expenditure

This bill requires middle school-level and high school-level interscholastic or intramural athletic teams or sports that are sponsored by a public school or a private school and the school's students or teams compete against a public 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 females, women, or girls must not be open to male students.

A governmental entity, a licensing or accrediting organization, or an athletic association or organization may not entertain a complaint, open an investigation, or take another adverse action against a school for maintaining separate interscholastic or intramural athletic teams or sports for female students. A student who is deprived of an athletic opportunity or who suffers direct or indirect harm as a result of the provisions of the bill has a private cause of action for injunctive relief, damages, and other relief available under the law against a school.

Additionally, a student who is subject to retaliation or other adverse action by a school or athletic association or organization as a result of reporting a violation to an employee or representative of the school, athletic association or organization, or to a state or federal agency with oversight of schools has a private cause of action for injunctive relief, damages, and other relief available under the law against the school or athletic association or organization. A school 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 the 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 indicated on similar legislation that the bill does not alter the duties or responsibilities of the agency, but the agency could experience some legal costs associated with the bill. However, SCDE expects that any expenses associated with legal costs can be managed within current appropriations. Therefore, the bill will have no expenditure impact on SCDE.

State Agency Schools. The Wil Lou Gray Opportunity School, The Governor's School for the Arts and Humanities, and the Governor's School for Science and Mathematics indicated on similar legislation that the bill would have no expenditure impact since it does not alter the duties or responsibilities of the agencies. Also, the Governor's School for Agriculture at John de la Howe previously indicated that any expenses associated with the bill could be managed within current appropriations. Based upon these responses, we anticipate that any expenses for the School for the Deaf and Blind could also be managed within existing appropriations. Therefore, this bill is not expected to have an expenditure impact on the state agency schools.

Judicial Department. The department indicated on similar legislation that the bill creates a new cause of action and there is no data available to estimate the number of filings, hearings, or trials

that may be impacted as a result. The department also reported that these changes will have a minimal impact on the Judicial Branch and could be managed within their existing appropriations. Therefore, the bill will have no expenditure impact on the department.

State Revenue

N/A

Local Expenditure

This bill requires middle school-level and high school-level interscholastic or intramural athletic teams or sports that are sponsored by a public school or a private school whose students or teams compete against a public 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 females, women, or girls may not be open to male students. Further, the bill provides for the legal action that may be taken if a student or school suffers direct or indirect harm as a result of the provisions of this bill.

SCDE previously surveyed the seventy-nine regular school districts on similar legislation 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 expects the expenses could be managed within the existing budgets of the districts. Therefore, the bill will have no expenditure impact on local school districts.

Local Revenue

N/A



Frank A. Rainwater, Executive Director