



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: H. 4608 Signed by Governor on May 16, 2022
Author: Trantham
Subject: Save Women's Sports Act
Requestor: House of Representatives
RFA Analyst(s): Bryant and Tipton
Impact Date: July 20, 2022

Fiscal Impact Summary

This 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. 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. The bill further provides for legal action that may be taken if a student, school, or postsecondary institution 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 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 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 any changes will be minimal and can be managed within existing appropriations.

This 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 bill will have an undetermined impact on public state colleges and universities. While some schools do not anticipate an impact, others indicate that there could be conflict between this bill and NCAA guidelines 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 will be necessary as a result of the legislation, which will increase General Fund expenditures for the university by approximately \$26,000 beginning in FY 2022-23.

This bill further requires private schools or institutions sponsoring an athletic team or sport in which its students or teams compete against a public school or institutions 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 twenty-one private colleges or universities in the state, sixteen have Division I, II, or III athletic programs and compete against public schools.

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.

Explanation of Fiscal Impact

Signed by Governor on May 16, 2022

State Expenditure

This bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public elementary school, 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 shall not be open to students of the female sex unless no team designated for females in that sport is offered at the school in which the student is enrolled. Athletic teams or sports designated for females, women, or girls shall 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 may initiate a cause of action 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 postsecondary institutions may initiate a cause of action against the school, postsecondary institution, or athletic association or organization. A school or postsecondary institution that suffers direct or indirect harm as a result of a violation of this bill may initiate a cause of action against the governmental entity, licensing or accrediting organization, or athletic association or organization. An action arising under this section must be commenced within two years after the alleged injury and is subject to the South Carolina Tort Claims Act.

The bill further prohibits a public school district that is supported by state funds from using any funds to join, affiliate with, pay dues or fees to, or in any way financially support any interscholastic athletic association, body, or entity unless the constitution, rules or policies of the

association, body, or entity recognizes, sanctions, and regulates interscholastic competition of wrestling teams composed exclusively of female students.

State Department of Education. SCDE indicates that while the bill does not alter the duties or responsibilities of the agency, it could experience some legal costs associated with the legislation. However, the agency indicates that any expenses associated with legal costs can be managed within current appropriations. Therefore, we do not anticipate that this 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 indicate that the bill will have no expenditure impact since any expenses can be managed within existing appropriations.

Commission on Higher Education. CHE reports that any expenses can be managed within existing appropriations. Based on this response, we do not anticipate that this bill will have an expenditure impact on the agency.

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

Additionally, two public colleges and universities indicate that the legislation could be in violation of NCAA guidelines and regulations. 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 due to litigation costs as well.

Judicial. This bill may increase the number of cases in Common Pleas and Summary Courts. Since the legislation creates a new cause of action, there is no data with which to estimate the number of additional filings. However, Judicial intends to use existing General Fund appropriations to manage any modifications in caseloads. Therefore, we do not anticipate that this bill will have an expenditure impact on Judicial.

State Revenue

As noted above, a cause of action brought pursuant to this bill must be commenced within two years after the harm occurs and is subject to the South Carolina Tort Claims Act. 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, 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 public colleges and universities indicate that because the legislation violates NCAA guidelines and regulations, the NCAA could levy sanctions or bans against the institution, which could reduce athletic revenue to the school. However, the potential for sanctions or bans imposed by the NCAA as a result of this bill is currently unknown. Therefore, the revenue impact on state colleges and universities is undetermined.

This bill further requires private schools or institutions sponsoring an athletic team or sport in which its students or teams compete against a public school or institution 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 twenty-one private colleges or universities in the state, sixteen have Division I, II, or III athletic programs and compete against public schools.

Local Expenditure

As noted above, this bill requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public elementary or secondary school or public postsecondary institution to be expressly designated based on biological sex at birth. Local school districts indicate that the legislation will have no expenditure impact since it does not alter the duties or responsibilities of the districts. However, SCDE indicates that there could be some expenses associated with legal costs but expects the expenses can be managed within the existing budgets of the districts. Based on this response, we do not anticipate that this bill will have an expenditure impact on local school districts.

Additionally, the bill further prohibits a public school district that is supported by state funds from using any funds to join, affiliate with, pay dues or fees to, or in any way financially support any interscholastic athletic association, body, or entity unless the constitution, rules or policies of the association, body, or entity recognizes, sanctions, and regulates interscholastic competition of wrestling teams composed exclusively of female students. SCDE does not anticipate that this portion of the bill will have an expenditure impact on local school districts.

Local Revenue

As previously noted, a cause of action brought pursuant to this bill must be commenced within two years after the alleged injury occurs. A person or organization that prevails on a claim pursuant to the provisions of this bill may be 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 that this bill may result in an undetermined increase in local revenue due to additional court fines and fees.



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