

South Carolina Board of Economic Advisors Statement of Estimated State Revenue Impact

Date: May 4, 2010

Bill Number: H.B. 3161 (As amended by House, 04/29/10)

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Committee Requesting Impact: Senate Judiciary

Bill Summary: A bill to amend Section [1-23-660](#), as amended, Code of Laws of South Carolina, 1976, relating to the Office of Motor Vehicle Hearings within the Administrative Law Court (ALC), so as to require the Office of Motor Vehicle Hearings to employ certain professional and support staff; and to amend Section [56-5-2952](#), as amended, relating to the filing fee to request an administrative hearing, so as to increase the filing fee from one hundred fifty to two hundred fifty dollars and provide for the distribution of the filing fee funds collected. *(as further amended)*

REVENUE IMPACT ^{1/}

This bill, as last amended by House, is expected to raise certain court fees by a total of \$22,244,058 in FY 2010-11, and also by a total of \$22,244,058 in FY 2011-12. Of these totals, in FY2010-11, and again in FY2011-12, it is expected to raise ALC earmarked funds from docketing fees by \$400,000, and allocate \$200,000 in motion fee proceeds to the SCAJC; whereas Judicial Department earmarked funds would increase by a total of \$21,644,058 in FY 2010-11 and also by \$21,644,058 in FY 2011-12. The bill would not impact state General Fund revenue.

Explanation as further amended by House and returned to Senate (April 29, 2010): The House struck Section 4 and renumbered other sections to conform. This amendment thus eliminated a \$50 fee on any court deposition as applicable in FY 2010-11. This change would therefore reduce JD earmarked funds by \$2,534,500 (based on an estimated 50,690 depositions times \$50 each), from a total increase of \$24,178,558 in prior Senate version to an adjusted total of \$21,644,058 in FY 2010-11.

Explanation as further amended, then passed by Senate (April 22, 2010): Section 4 was amended to further specify procedure and time frame for an attorney to forward notice of any deposition conducted and to pay a \$50 fee to applicable clerk of court. Also, this \$50 deposition fee would be in effect until the close of FY2010-11; whereas in prior Senate version it was applicable through the close of FY 2011-12. The elimination of this deposition fee in FY 2011-12 would therefore reduce JD earmarked funds by \$2,534,500 (based on an estimated 50,690 depositions times \$50 each), from a total increase of \$24,178,558 in prior Senate version to an adjusted total of \$21,644,058 in FY 2011-12.

Explanation of Amendment (April 15, 2010) – By Senate: (as corrected by BEA/04/27/10): Section 3 raises the fee to file a motion in Circuit/Family Court by \$50, from \$25 to \$75. As further amended, the JD would now receive proceeds in excess of an enhanced base allocation of \$650,000, prorated at an ongoing allocation of \$450,000 to PCC and a new base allocation of \$200,000 for use of the S.C. Access to Justice Commission (SCAJC). This change would reduce net proceeds to the JD by an offsetting amount of \$200,000. Sec. 3 Impact: SCAJC, +\$200,000; JD, offset of -\$200,000 down to \$2,685,652. There is no change in total impact for Section 3 of \$2,885,652 as in prior bill version. Section 4 adds new Code Section 8-21-330 to assess a \$50 fee on an attorney to conduct a court deposition. All proceeds go to the JD to support operations. Based on a review by Court Administration, we expect this assessment would apply to a total of 50,690 depositions. Multiplying 50,690 times \$50 yields \$2,534,500. Thus, this \$50 fee is expected to raise JD earmarked funds by \$2,534,500. Section 5 of Senate bill strikes the \$150 fee added by Judiciary Committee as new subsection (C) (1) of Code Section 14-1-204 and inserts new subsection (C). The amended subsection creates two additional court filing fees applicable to Code Section 8-21-310 (11) (a). A \$50 additional fee would apply to initial filings in family court, except for certain child support/modification proceedings; whereas a \$150 additional fee would apply to actions filed in a court of common pleas. With the addition of these two new fees, the total cost to file an action in family court would be \$200; whereas the total cost to file an action in a court of common pleas would be \$300. Based on a review by Court Administration, we expect 25,900 family court filings, at \$50 each,

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would yield \$1,295,000 in the initial year. Also, we expect 100,000 filings in common pleas, at \$150, would yield \$15,000,000 in the initial year. In summary, the current Senate version is expected to allocate a total of **\$24,778,558**. Of this total, \$200,000 is allocated to the SCAJC, JD earmarked funds would increase by an adjusted net total of **\$24,178,558** (to include a net increase of \$5,349,058 in JD earmarked funds for those fee increases that were unchanged from Senate Judiciary version), and the expected \$400,000 increase in ALC earmarked funds in bill adopted by the House. Projections are based on historical records of Court Administration and the Office of the State Treasurer, and depict comparable yields from twelve, full months of collections in FY 2010-11. Note: Except for the \$100 increase in ALC filing fee under Code Section 56-5-2952, all other fee increases remain in effect until the close of FY 2011-12.

Explanation of Subcommittee Amendment (February 18, 2010) – By Senate Judiciary (as edited by BEA): The amendment adds new Sections 3 – 5, inclusive, and directs all proceeds of new or increased fees as earmarked funds for use of the Judicial Department (JD). Section 3 would raise the fee to file a motion in Circuit/Family Court by \$50, from \$25 to \$75. The JD would receive all new proceeds in excess of a base allocation of \$450,000 for use of the Prosecution Coordination Commission (PCC). Sec. 3 Impact: +\$2,885,652. Section 4 would add a second, additional fee of \$150 to a base \$100 fee, and an ongoing additional \$50 fee, to bring the total cost to file certain papers in Circuit/Family Court under Section 8-21-310 (11) (a) to \$300. The JD would receive all proceeds from the additional \$150 fee. Sec. 4 Impact: +\$10,636,901. Section 5 would double current fees for certain filings in magistrate court. The fee to file a summons and complaint action would go from \$25 to \$50; whereas the fee to file all other civil actions, except restraining orders, would go from \$10 to \$20. The JD would receive all proceeds of respective fee increases of \$25 and \$10 for such civil case filings. Sec. 5 Impact: +\$2,663,406. In summary, the subcommittee amendment is expected to raise JD earmarked funds by a combined total of \$16,185,959 in FY 2010-11. That amount is cumulative to revenue impact of bill adopted by the House. Projections are based on historical records of the Office of the State Treasurer, and depict comparable yields from twelve, full months of collections in FY 2010-11. Note: Except for the \$100 increase in ALC filing fee under Code Section 56-5-2952, all other fee increases remain in effect until the close of FY 2011-12.

Explanation of bill as adopted By House (03/27/09): This bill, as passed by House, would raise the filing fee to request a contested case hearing before the Office of Motor Vehicle Hearings (OMVH) of the Administrative Law Court (ALC) by \$100, from the current level of \$150 to \$250. Proceeds for this filing fee must be retained by the ALC, and must first be used to meet expenses of the OMVH, to include salaries of its employees.

While language changes in the bill do not alter the current allocation of filing fee proceeds as ALC earmarked funds, it further restricts use of such retained revenue. Based on information provided by staff of the ALC, we expect this bill would apply to 4,000 case filings before the OMVH in FY 2010-11. Multiplying the net fee increase of \$100 times 4,000 case filings yields \$400,000. The House bill would therefore raise ALC earmarked funds by \$400,000 in FY 2010-11. Since no filing fee proceeds are currently allocated to the state's General Fund, the bill would not impact General Fund revenue.

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^{1/} This statement meets revenue impact requirements of Section 2-7-71 for a state impact by BEA, Section 2-7-76 for a local impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by Office of Economic Research (OER).