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Bill Number:	S. 0909 Introduced on January 9, 2024
Author:	Davis
Subject:	Energy Reform
Requestor:	Senate Judiciary
RFA Analyst(s):	Manic and Griffith
Impact Date:	February 7, 2024

Fiscal Impact Summary

The bill makes multiple changes to Title 58 of the South Carolina Code of Laws. The bill reduces the number of commissioners in the Public Service Commission (PSC) from seven to five. The bill also imposes additional responsibilities on the PSC, such as reviewing annual reports from utilities for demand-side management, reviewing low-income affordability tariffs, reviewing competitive procurement for renewable energy and capacity from energy storage facilities, evaluating voluntary clean energy programs for utilities, establishing a fuel cost recovery mechanism, reviewing filings related to renewable energy microgrids, reviewing utility transmission and distribution plans, and reviewing utility nuclear facilities annual progress reports, among other duties. The bill specifies that the PSC must adopt rules to implement the provisions of the bill and permits the agency to retain consultants and other support staff as needed.

The bill also imposes additional responsibilities on the Office of Regulatory Staff (ORS). The bill requires ORS to provide additional implementation and review of industrial customer rate proposals. ORS must also provide assessment of a transmission utility's membership in the energy imbalance market. Additionally, ORS must develop and publish materials to inform and educate the public on demand-side management programs and must maintain a list of approved vendors for the programs. The bill also requires the ORS, with assistance from the South Carolina Energy Office (Energy Office), to conduct a study to evaluate the potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator for energy efficiency programs and other demand-side management programs. Additionally, the bill requires the Energy Office to administer the PowerSC Innovation Fund, which must be used to research, develop, or assess the appropriateness of and for the implementation of innovative energy and energy efficiency technologies. The Energy Office must collaborate with the Department of Commerce (Commerce) to establish and publish guidelines for disbursement of the funds. Expenditures and disbursements from the Fund must be made by the State Treasurer (STO) on warrants issued by the Comptroller General. The bill authorizes ORS to retain consulting services to implement the provisions of the bill. The bill further requires additional reporting requirements of the ORS.

This bill imposes additional responsibilities on the Public Service Authority (PSA). The bill permits the PSA to jointly own electric generation and transmission facilities with investor-owned electric utilities. The bill also encourages the PSA, along with other entities, to construct certain facilities in specific areas. Additionally, the bill requires the PSA to file with the PSC for program approval for competitive procurement of ancillary services and energy storage facilities.

The bill adds provisions for judicial review of matters from the PSC in order to allow immediate appeal to the Supreme Court of South Carolina of any final order. Also, the bill specifies that the Supreme Court shall provide an expedited briefing and hearing of the appeal.

This bill makes changes to the process by which the Department of Health and Environmental Control (DHEC) must review applications for certification pursuant to the Clean Water Act. The bill also requires DHEC to establish processes and procedures for express permit and certification review for certain water related permits, approvals, and certifications.

PSC indicates that the reduction of two commissioners will result in a cost savings of $502,040 annually. Further, PSC anticipates the need for 4.0 FTEs to manage the additional responsibilities imposed by the bill. Salary and fringe for the new FTEs is expected to total $493,192, and other recurring expenses are expected to total $19,418. Nonrecurring expenses for equipment for the new FTEs are expected to total $4,234. In total, including the cost savings, Other Funds expenses are expected to increase by $14,804 in FY 2024-25 and will decrease to $10,570 each year thereafter. PSC has indicated that the agency can manage these expenses with current resources. However, as the agency gains a better understanding of the additional workload due to the bill's requirements, it anticipates needing additional staff and resources and may need to request an increase in Other Funds authorization in the future.

The bill also requires the Public Utilities Review Committee to retain a third-party, independent expert consultant to conduct a comprehensive study of any official board or commission of any state or of the United States having a similar jurisdiction, role, or responsibilities as the PSC or the ORS. The third-party, independent expert consultant shall prepare and deliver this report, along with its recommendations to the General Assembly by January 1, 2025. PSC and ORS indicate that the expenditure impact of this portion of the bill is undetermined but anticipate that it will increase nonrecurring expenditures of the Public Utilities Review Committee by at least $100,000 in FY 2024-25. However, pursuant to Section 58-3-540, expenses to undertake studies shall be borne by the public utilities subject to the jurisdiction of the PSC.

ORS anticipates hiring 7.0 FTEs to manage the additional tasks required by the bill. The total recurring salary and fringe benefits for the new FTEs is expected to be $1,200,653 beginning in FY 2024-25. The agency also anticipates recurring miscellaneous expenses of $17,152. In total, the bill is expected to increase Other Funds expenses of ORS by $1,217,805. The agency will request an increase in Other Funds authorization to cover these expenses.

The expenditure impact of this bill on PSA is pending, contingent on more information from the agency. However, PSA indicates that the bill could have a significant impact on the agency.

Commerce indicates that the bill will not have an impact on the agency because it can manage the additional requirements with existing staff and resources.

Judicial indicates that it can manage the increased costs related to the changes in procedures for appeals of final orders issued by the PSC and the scheduling of such appeals with existing appropriations. Therefore, the bill will have no fiscal impact on Judicial.

STO indicates that the bill will have a minimal impact that can be managed with existing resources. Therefore, the bill will have no expenditure impact on the STO.

We anticipate that the Comptroller General's Office will be able to manage the responsibilities of the bill with existing staff and with existing appropriations. We will update this impact statement if the agency provides a different response.

The overall expenditure impact of this bill on DHEC is undetermined. DHEC indicates that it will need additional staff to process the expedited permits. However, the number of additional FTEs required will depend on the number of expedited permit requests, which is unknown. DHEC expects that the fees collected from the expedited licensing program will offset a portion of the department's cost for implementation of the program. Nevertheless, because expedited fees follow economic conditions, alternative funding will be needed to support staff during times of reduced demand for expedited permits. Therefore, DHEC will request both an increase in General Fund appropriations and an increase in Other Funds authorization to cover expenses associated with the expedited licensing process.

The impact to Other Funds revenue of DHEC is undetermined. However, the department indicates that it will charge a fee for expedited permit requests, and the amount of the fee will be determined using stakeholder input. Any revenue from these fees will be used solely to offset the costs of DHEC's expedited permitting program.

We are unable to estimate the potential amount of donations the PowerSC Innovation Fund may receive. Therefore, the Other Funds revenue impact for public and private donations to the Fund is undetermined. Also, it is unclear of the amount of General Fund revenue that may be appropriated to the PowerSC Innovation Fund.

The bill requires electric cooperatives providing resale or retail services, municipally-owned electrical utilities, and the PSA to report annually to the Energy Office within the ORS on available data related to past, on-going, and projected status of demand-side management programs. The bill also requires municipalities to participate in the certification process of major utility facilities. Further, the bill excludes municipal electric utilities from the list of approved entities selling retail electric power to the public. The expenditure impact of this bill on municipal governments is undetermined. However, the Municipal Association of South Carolina (MASC) indicates that the main expenditure impact of this bill is associated with the exclusion of municipally-owned electrical utilities from the list of approved entities selling retail electric power to the public. MASC states that these utilities may incur significant financial impacts as a result of the loss of major customers if municipally-owned utility providers are not exempt from the retail choice provision. Also, due to the limited footprint within which these utility providers operate, as well as their inability to expand their service boundaries to recoup lost customers, losses of large customers will have a significant impact on municipally-owned utility providers. Additionally, MASC observes that if the inclusion of a transmission and distribution system plan as a mandatory element of a utility's integrated resource plan is applicable for municipally-owned utility providers, this will result in additional professional services costs particularly to smaller municipally-owned utility providers. MASC cannot quantify the potential impacts of the above-mentioned financial losses and additional expenditures arising from the possibility of municipally-owned utility providers having to include a transmission and distribution system plan in the integrated resource plan.

Explanation of Fiscal Impact

Introduced on January 9, 2024
State Expenditure
The bill makes multiple changes to Title 58 of the South Carolina Code of Laws and imposes additional responsibilities on PSC, ORS, PSA, Commerce, Judicial, STO, and the Office of the Comptroller General. Additionally, the bill makes changes to the process by which DHEC must review applications for certification pursuant to the Clean Water Act and requires DHEC to establish processes and procedures for express permits for certain water related permits, approvals, and certifications.

Public Service Commission. The bill reduces the number of commissioners in the PSC from seven to five. Also, the bill requires the PSC to provide rationales on its primary conclusions for verbal directives and to publish final orders and decisions after giving verbal directives. The bill also requires the PSC to evaluate and approve electrical utilities' integrated resource plans seeking to reduce emissions and modernize the electric grid. In addition, the bill requires the PSC to retain a statewide independent transmission monitor who will evaluate utilities' transmission and distribution plans and advise the Commission in its review of utilities' plans. PSC must also submit a report to the General Assembly, six months after the conclusion of the first integrated resource plan incorporating transmission and distribution plans, with findings and recommendations for the need of further reforms.

The bill also amends Article 3 of Chapter 33 in Title 58 in order to provide for several new considerations related to the certification of major utility facilities by the PSC. Additionally, the bill encourages electrical utilities to explore the potential for deploying small modular nuclear facilities at suitable sites and requires utilities pursuing such projects to submit annual project reports to the PSC.

Further, the bill requires the PSC to provide for energy efficiency and demand-side resources through cost-effective energy efficient technologies and energy conservation programs to be developed by utilities as well as to review an annual report that is required from electrical utilities describing demand-side programs implemented by these utilities in the previous year.

Additionally, the bill makes several changes related to net energy metering in order to require the PSC to provide certain entities the possibility to offset all or part of their electricity needs through renewable energy resources. The bill also requires the PSC to open a docket to establish a remote net metering program for each electrical utility by January 1, 2025, as well as to provide requirements and procedures for such programs. The bill requires the PSC to hold a hearing on each utility's proposed net metering program and to issue a final order establishing a remote net energy metering program for each electrical utility by January 31, 2026.

Further, the bill requires PSC to open a docket for the purpose of assessing each transmission utility's membership in the energy imbalance market no later than January 1, 2027, and permits the agency to retain a third-party, independent administrator qualified to coordinate all aspects of the development of an energy imbalance market and to carry out these responsibilities. The PSC must approve each transmission utility's membership in the energy imbalance market with certain exceptions.

PSC indicates that the reduction of two commissioners will result in a cost savings of $502,040 annually. Further, PSC anticipates the need for 4.0 FTEs (a Senior Paralegal, an Attorney, an Accounting/Fiscal Manager, and an Associate Engineer) to manage the additional responsibilities imposed by the bill. Salary and fringe for the new FTEs is expected to total $493,192, and other recurring expenses are expected to total $19,418. Nonrecurring expenses for equipment for the new FTEs are expected to total $4,234. In total, including the cost savings, Other Funds expenses are expected to increase by $14,804 in FY 2024-25 and will decrease to $10,570 each year thereafter. PSC has indicated that the agency can manage these expenses with current resources. However, as the agency gains a better understanding of the additional workload due to the bill's requirements, it anticipates needing additional staff and resources and may need to request an increase in Other Funds authorization in the future.

The bill also requires the Public Utilities Review Committee to retain a third-party, independent expert consultant to conduct a comprehensive study of any official board or commission of any state or of the United States having a similar jurisdiction, role, or responsibilities as the PSC or the ORS. The third-party, independent expert consultant shall prepare and deliver this report, along with its recommendations to the General Assembly by January 1, 2025. PSC and ORS indicate that the expenditure impact of this portion of the bill is undetermined but anticipate that it will increase nonrecurring expenditures of the Public Utilities Review Committee by at least $100,000 in FY 2024-25. However, pursuant to Section 58-3-540, expenses to undertake studies shall be borne by the public utilities subject to the jurisdiction of the PSC.

Office of Regulatory Staff. The bill permits an electrical utility to propose programs and customer incentives to encourage or promote demand-side management programs whereby a customer uses a customer-sited distribution energy resource or combination of resources. The bill requires ORS to develop and publish materials intended to inform and educate the public regarding demand-side management programs. ORS must maintain a list of approved vendors who are qualified to provide services associated with these programs. Additionally, the bill requires the ORS, with assistance from the Energy Office, to conduct a study to evaluate the potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator for energy efficiency programs and other demand-side management programs. The study is subject to available funding. The bill also permits ORS to retain services of an expert or consultant with expertise and experience in the successful implementation of independently administrated, ratepayer-funded energy efficiency programs. The bill further imposes additional reporting requirements on the agency.

In addition, the bill requires the Energy Office to administer the PowerSC Innovation Fund, which must be used to research, develop, or assess the appropriateness of and for the implementation of innovative energy and energy efficiency technologies. Funds may be appropriated and may be derived from any other source, including public and private funds. The Energy Office must collaborate with the Secretary of Commerce to establish and publish guidelines for disbursement of the funds. Expenditures and disbursements from the Fund must be made by the State Treasurer on warrants issued by the Comptroller General upon written request by the Director of the Energy Office. The bill also establishes the PowerSC Innovation Program, which must also be administered by the Energy Office. The Energy Office, in collaboration with the PowerSC Interagency Working Group, must establish and publish guidelines and criteria for disbursement of the funds, which shall include and provide for grants to support higher education research on advanced energy technologies, to fund emissions-free energy workforce development programming, and to assist with site selection for future small modular reactor projects in South Carolina. In collaboration with the Secretary of Commerce, the Energy Office must establish and publish guidelines and criteria for disbursement of funds. A minimum of fifty percent of grant dollars each fiscal year must be spent on advanced nuclear deployment with those funds reverting to all eligible purposes if they are unspent after two years.

ORS anticipates hiring 7.0 FTEs (an Administrator, an Analyst, an Auditor, an Engineer, a Legal Specialist, and two leadership positions) to manage the additional tasks required by the bill. The total recurring salary and fringe benefits for the new FTEs is expected to be $1,200,653 beginning in FY 2024-25. ORS also anticipates recurring miscellaneous expenses of $17,152. In total, the bill is expected to increase Other Funds expenses of ORS by $1,217,805. The agency will request an increase in Other Funds authorization to cover these expenses. Additionally, ORS anticipates the need to hire consultants to support the responsibilities related to the demand-side management programs, implementation and review of a competitive procurement program, remote net metering program, transmission and distribution plan review and participation, resilient energy resource facilities, and the study to evaluate potential costs and benefits of establishing a nonprofit entity to serve as a third-party administrator of energy efficiency programs. The agency estimates the total consulting expenses associated with these responsibilities to total $1,425,000, of which $100,000 will be recurring every three years pursuant to Section 58-37-20(D) in the bill. ORS indicates that these expenses will not impact the agency since they will be paid directly by the public utilities, pursuant to Section 58-4-100. Further, the agency expects that the Energy Office will need to hire 2.0 additional FTEs with total recurring salary and fringe benefits of $186,462, as well as recurring miscellaneous expenses of $2,664. However, ORS indicates that the Energy Office does not receive funding from the State pursuant to Section 48-52-470 and is entirely funded by Federal Funds. As a result, the agency indicates that the additional responsibilities required by the bill for the Energy Office would be subject to the Office receiving additional funding from the U.S. Department of Energy.

Public Service Authority. The bill allows the PSA to jointly own electric generation and transmission facilities along with investor-owned electric utilities, as well as sets specific conditions for such ownership. This bill requires all transmission utilities operating in South Carolina to join the energy imbalance market by January 1, 2028, with certain exceptions. Additionally, the bill requires electrical utilities to file for PSC approval of a program for the competitive procurement of energy, capacity, ancillary services, and environmental attributes from renewable energy and energy storage facilities located in the electrical utility's balancing authority area to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan or other planning process. A competitive procurement program may be used to procure any subset of energy, capacity, ancillary services, and environmental attributes, as determined appropriate by the commission. Further, beginning no later than one year after the effective date of this bill and continuing for three additional years thereafter, each electrical utility and the PSA must conduct an annual competitive procurement of non-variable fuel cost generation resources and energy storage resources in a manner consistent with the requirements of the bill.

In addition, the bill states that, along with several other parties, PSA must be included in the certification process of major utility facilities' construction. The bill also highlights the General Assembly's encouragement of the PSA, along with Dominion Energy, to prepare to construct one or more natural gas-fired combined cycle generation facilities of up to 2,000 MW capacity and for the related transmission facilities. Further, the bill requires electric cooperatives providing resale or retail services, municipally-owned electrical utilities, and the PSA to report annually to the Energy Office within the ORS on available data related to past, on-going, and projected status of demand-side management programs. Moreover, the bill provides standards according to which electrical utilities may propose programs and customer incentives that encourage the implementation of demand-side management programs.

The expenditure impact of this bill on PSA is pending, contingent on more information from the agency. However, PSA indicates that the bill could have a significant impact on the agency.

Department of Commerce. This bill requires the Energy Office to collaborate with the Secretary of Commerce to establish and publish guidelines for disbursement of the PowerSC Innovation Fund. Commerce indicates that it can accommodate the additional requirements of the bill with existing staff and resources. Therefore, the bill will have no impact on the agency.

Judicial. This bill specifies that any final order on the merits issued pursuant to Chapter 33, Title 58 must be immediately appealable to the Supreme Court of South Carolina, without petition for rehearing or reconsideration. The Supreme Court must provide for expedited briefing and hearing of the appeal in preference to all other nonemergency matters. Judicial indicates that the bill will have no fiscal impact because it can manage the increased costs related to the changes in procedures for appeals of final orders issued by the PSC and the scheduling of such appeals with existing appropriations.

State Treasurer's Office. Expenditures and disbursements from the PowerSC Innovation Fund must be made by the State Treasurer on warrants issued by the Comptroller General upon written request by the Director of the Energy Office. STO indicates that the bill will have a minimal impact that can be managed with existing resources.

Office of the Comptroller General. Expenditures and disbursements from the PowerSC Innovation Fund must be made by the State Treasurer on warrants issued by the Comptroller General upon written request by the Director of the Energy Office. We anticipate that the Comptroller General's Office will be able to manage the responsibilities of the bill with existing staff and with existing appropriations. We will update this impact statement if the agency provides a different response.

Department of Health and Environmental Control. The overall expenditure impact of this bill on DHEC is undetermined. DHEC indicates that it will need additional staff to process the expedited permits. However, the number of additional FTEs required will depend on the number of expedited permit requests, which is unknown. DHEC expects that the fees collected from the expedited licensing program will offset a portion of the department's cost for implementation of the program. Nevertheless, because expedited fees follow economic conditions, alternative funding will be needed to support staff during times of reduced demand for expedited permits. Therefore, DHEC will request both an increase in General Fund appropriations and an increase in Other Funds authorization for the expenses associated with the expedited licensing process.

State Revenue
This bill makes changes to the process by which DHEC must review applications for certification pursuant to the Clean Water Act. The bill also requires DHEC to establish processes and procedures for express permit and certification review for certain water related permits, approvals, and certifications. The impact to Other Funds revenue of DHEC is undetermined. However, the department indicates that it will charge a fee for expedited permit requests, and the amount of the fee will be determined using stakeholder input. Any revenue from these fees will be kept in a distinct fund and used solely to offset the costs of DHEC's expedited permitting program.

The bill also requires the South Carolina Energy Office to administer the PowerSC Innovation Fund, which must be used to research, develop, or assess the appropriateness of and for the implementation of innovative energy and energy efficiency technologies. Funds may be appropriated and may be derived from any other source, including public and private funds. We are unable to estimate the potential amount of donations the PowerSC Innovation Fund may receive. Therefore, the Other Funds revenue impact for public and private donations to the Fund is undetermined. Also, it is unclear of the amount of General Fund revenue that may be appropriated to the PowerSC Innovation Fund.

Local Expenditure
The bill requires electric cooperatives providing resale or retail services, municipally-owned electrical utilities, and the PSA to report annually to the Energy Office within the ORS on available data related to past, on-going, and projected status of demand-side management programs. The bill also requires municipalities to participate in the certification process of major

utility facilities. Further, the bill excludes municipal electric utilities from the list of approved entities selling retail electric power to the public.

The expenditure impact on municipal governments is undetermined. However, MASC indicates that the main expenditure impact from the bill is associated with the exclusion of municipally-owned electrical utilities from the list of approved entities selling retail electric power to the public. MASC states that these utilities may incur significant negative financial impacts as a result of the loss of major customers (both current and potential) if municipally-owned utility providers are not exempt from the retail choice provision. Also, due to the limited footprint within which these utility providers operate as well as their inability to expand their service boundaries to recoup lost customers, losses of large customers will have a significant negative impact on municipally-owned utility providers. Additionally, MASC observes that if the inclusion of a transmission and distribution system plan as a mandatory element of a utility's integrated resource plan is applicable for municipally-owned utility providers, this will result in additional professional services costs particularly to smaller municipally-owned utility providers. MASC cannot quantify the potential impacts of the above-mentioned financial losses and additional expenditures arising from the possibility of municipally-owned utility providers having to include a transmission and distribution system plan in the integrated resource plan.

Local Revenue
N/A

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