AMENDED

February 13, 2019

**H. 3417**

Introduced by Reps. Tallon, Wooten, W. Newton, Fry, R. Williams, Clemmons and Hixon

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Read the first time January 8, 2019.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by Senate Judiciary on January 29, 2019**

**State Expenditure**

This amended bill moves the administration of the state’s Illegal Immigration Enforcement Unit (unit) from the Department of Public Safety (DPS) to the South Carolina Law Enforcement Division (SLED) by repealing Section 23-6-60 and adding Article 18 (Illegal Immigration Unit) to Title 23, Chapter 3 of the South Carolina Code of Laws. The employees, authorized appropriations, assets, and liabilities of the unit transfer to SLED and fall under the administrative direction of the Chief of SLED. All personnel employed by the unit on the effective date of the bill, either by contract or by employment at will, become employees of SLED and retain their employment status, compensation, classification, and grade level. The structure and responsibilities of the unit continue to include the enforcement of federal and state immigration laws and state criminal laws, as well as the offering of an illegal immigration enforcement training program for use by local law enforcement agencies. The unit must be funded annually by a specific appropriation to the unit in the state general appropriations act, separate and distinct from SLED’s other appropriations.

**Department of Public Safety.** The bill transfers the Illegal Immigration Enforcement Unit from DPS to SLED. As a result, DPS expenditures will decrease by the amount the unit would expend. For FY 2018-19, the amount appropriated from the general fund for expenditure by the unit is $426,544 in personal service for 12 FTEs, $207,050 in employer contributions, and $118,525 for operating expenses. In addition, within the Highway Patrol’s budget, the unit is authorized to expend $31,508 in other funds for its operations. The source of these funds is cash confiscated by the Highway Patrol during drug arrests, and any amount remaining would transfer with the unit as a non-recurring cash transfer. Also transferring would be the balance of a FY 2011-12 non-recurring appropriation to the unit in accordance with proviso 90.18. As of February 11, 2019, this balance was $23,706. These funds are used as needed to cover the unit’s operating expenses. The Illegal Immigration Enforcement Unit also has a petty cash account that was established during FY 2018-19. These funds are used by the unit during undercover operations. The balance, as of February 11, 2019, was $4,900. In summary, $752,119 in General Funds and $60,014 in other funds will be transferred to SLED as a result of the bill.

**South Carolina Law Enforcement Division.** SLED expenditures would increase for the expenditures of the Illegal Immigration Enforcement Unit once the unit is transferred to SLED. Budgeted expenditures of the unit as part of DPS are reported above. SLED indicates including the unit within SLED would not create an additional expenditure impact for the agency, provided current appropriations and fund balances transfer as required by the bill. The division indicates SLED will not incur an expenditure impact to house the unit, as the staff are field officers. SLED also indicates transition costs will be minimal and managed within existing resources. There is no expenditure impact to the general fund, other funds, or federal funds for transition expenses and physically locating the unit at SLED.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 3, TITLE 23 SO AS TO ESTABLISH THE ILLEGAL IMMIGRATION ENFORCEMENT UNIT WITHIN THE STATE LAW ENFORCEMENT DIVISION; TO REPEAL SECTION 23‑6‑60 RELATING TO THE ILLEGAL IMMIGRATION ENFORCEMENT UNIT ESTABLISHED WITHIN THE DEPARTMENT OF PUBLIC SAFETY; AND TO TRANSFER ALL THE ASSOCIATED EMPLOYEES, AUTHORIZED APPROPRIATIONS, ASSETS, AND LIABILITIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Article 18

Illegal Immigration Unit

Section 23‑3‑1600. (A) There is created an Illegal Immigration Enforcement Unit within the South Carolina Law Enforcement Division (SLED). The purpose of the Illegal Immigration Enforcement Unit is to enforce immigration laws as authorized pursuant to federal laws and the laws of this State.

(B) The Illegal Immigration Enforcement Unit is under the administrative direction of the Chief of SLED. The chief shall maintain and provide administrative support for the Illegal Immigration Enforcement Unit. The chief may appoint appropriate personnel within SLED to administer and oversee the operations of the Illegal Immigration Enforcement Unit.

(C)(1) The Illegal Immigration Enforcement Unit is composed of officers, agents, and employees as the chief considers necessary and proper for the enforcement of immigration laws as authorized pursuant to federal laws and the laws of this State.

(2)(a) The enforcement of immigration laws as authorized pursuant to federal laws and the laws of this State must be the only responsibility of the officers of the Illegal Immigration Enforcement Unit.

(b) The officers are commissioned by the Governor upon the recommendation of the chief.

(c) The officers have the same power to serve criminal processes against offenders as sheriffs of the various counties and also the same power as those sheriffs to arrest without warrants and to detain persons found violating or attempting to violate immigration laws. The officers also have the same power and authority held by deputy sheriffs for the enforcement of the criminal laws of the State.

(D) Notwithstanding any other provision of law, the Illegal Immigration Enforcement Unit must be funded annually by a specific appropriation to the Illegal Immigration Enforcement Unit in the state general appropriations act, separate and distinct from SLED’s other appropriations.

(E) The chief shall negotiate the terms of a memorandum of agreement with the United States Immigration and Customs Enforcement pursuant to Section 287(g) of the federal Immigration and Nationality Act as soon as possible after the effective date of this act.

(F) Nothing in this section may be construed to prevent other law enforcement agencies of the State and political subdivisions of the State, including local law enforcement agencies, from enforcing immigration laws as authorized pursuant to federal laws and the laws of this State.

(G) SLED shall develop an illegal immigration enforcement training program which SLED shall offer to all local law enforcement agencies to assist any local law enforcement agency wishing to utilize the training program in the proper implementation, management, and enforcement of applicable immigration laws.”

SECTION 2. The Illegal Immigration Enforcement Unit of the Department of Public Safety is transferred to and incorporated into the State Law Enforcement Division (SLED). The employees, authorized appropriations, assets, and liabilities of the unit also are transferred to and become part of SLED. All classified or unclassified personnel employed by the unit on the effective date of this act, either by contract or by employment at will, shall become employees of SLED, with the same employment status, compensation, classification, and grade level, as applicable.

SECTION 3. Section 23‑6‑60 of the 1976 Code is repealed.

SECTION 4. This act takes effect July 1, 2019.

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