



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0984 Introduced on January 13, 2022
Author: Hembree
Subject: Service Fee
Requestor: Senate Finance
RFA Analyst(s): Tipton
Impact Date: March 29, 2022

Fiscal Impact Summary

This bill redefines service or user fee to specify that any fee levied by local governments must benefit the payer regardless of whether members of the general public benefit in the same manner and establishes new requirements for revenue generated by service or user fees.

The SC Supreme Court's 2021 opinion in *Burns v. Greenville County Council* determined that service charges that are uniformly imposed on payers that do not benefit the payers in a manner different from the members of the general public are taxes. Counties are only allowed to implement value-based property taxes or those taxes specifically authorized by the General Assembly. The Municipal Association of South Carolina (MASC) and the South Carolina Association of Counties (SCAC) indicate that absent a bill, local governments will be required to repeal an unknown number of fees as they are considered unauthorized taxes.

MASC and SCAC report that under the provisions of this bill, local governments may collect service or user fees in the manner in which they currently operate. Additionally, any service or user fees repealed by local governments following the *Burns* decision would be eligible for reinstatement. As a result, this bill may increase local revenue by approximately \$500,000 for the City of Aiken and \$1,000,000 for the Town of Hilton Head beginning in FY 2022-23.

Explanation of Fiscal Impact

Introduced on January 13, 2022

State Expenditure

N/A

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

The South Carolina Supreme Court's 2021 opinion in *Burns v. Greenville County Council* determined that any service charges enacted after 1996 that are uniformly imposed on payers that do not benefit the payers in a manner different to the members of the general public are taxes. Pursuant to Section 6-1-310, local governments may not impose a new tax after December 31, 1996, unless specifically authorized by the General Assembly, unless it is an ad valorem tax.

This bill strikes the requirement that service or user fees levied by local governments must benefit the payer in some manner different from the members of the general public not paying the fee. Additionally, this bill specifies revenue generated by service or user fees must:

- Benefit the payer even if the general public also benefits,
- May only be used for the specific improvement contemplated,
- May not exceed the cost of the improvement, and
- Must be uniformly imposed on all payers.

MASC and SCAC report that absent a bill, local government fee revenue will decrease following the *Burns* decision. The amount of the revenue loss will depend upon the number of unlawful fees that local governments currently impose. MASC indicates that the number of fees that would be deemed unlawful is currently unknown, and therefore the local revenue impact of no legislation to the municipalities is undetermined.

SCAC reports that approximately \$364,000,000 in service fees was collected statewide in FY 2020-21. SCAC further reports that road and vehicle service fees similar to the subject of the *Burns* decision generated approximately \$73,000,000 statewide. The number of fees that could be deemed unlawful are currently unknown, and, absent legislation, the potential local revenue reduction is undetermined.

MASC and SCAC indicate that under the provisions of this bill, local governments may collect service or user fees in the manner in which they currently operate. Additionally, any service or user fees repealed by local governments following the *Burns* decision would be eligible for reinstatement. According to MASC, the City of Aiken and Town of Hilton Head repealed or suspended road service fees resulting in a \$500,000 loss for the City of Aiken and \$1,000,000 loss for the Town of Hilton Head in FY 2021-22. Therefore, this bill may increase local revenue by approximately \$500,000 for the City of Aiken and \$1,000,000 for the Town of Hilton Head beginning FY 2022-23.



Frank A. Rainwater, Executive Director