



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

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. 3866	Amended by the Senate on February 20, 2024
Author:	Rutherford	
Subject:	Attorney General	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Boggs	
Impact Date:	March 12, 2024	

Fiscal Impact Summary

This bill establishes that when the Attorney General’s Office (AG) brings or defends an action in the name of the State of South Carolina, the AG acts in the public interest of the State and not as the legal representative or attorney of any department or agency of state government. Therefore, the AG cannot be considered to have possession, custody, or control over state agency documents or electronically stored information. However, this bill as amended specifies that when documents in the possession, custody, or control of any department, agency, or board of state government are requested in discovery in such action, the AG shall identify the department, agency, or board and their counsel and facilitate the production of such documentation from the department, agency, or board.

The AG anticipates this bill will increase General Fund expenditures by \$800,000 beginning in FY 2024-25. This includes salary, fringe, and other operating expenses for 7.0 FTEs to handle the increased workload to manage the documentation for other agencies, departments, or board, during the discovery period. The agency anticipates asking for an increase in General Fund appropriations to cover these expenses.

Explanation of Fiscal Impact

Amended by the Senate on February 20, 2024

State Expenditure

This bill establishes that when the AG brings or defends an action in the name of the State of South Carolina, the AG acts in the public interest of the State and not as the legal representative or attorney of any department or agency of state government. Therefore, the AG cannot be considered to have possession, custody, or control over state agency documents or electronically stored information. However, this bill as amended specifies that when documents in the possession, custody, or control of any department, agency, or board of state government are requested in discovery in such action, the AG shall identify the department, agency, or board and their counsel and facilitate the production of such documentation from the department, agency, or board.

The AG anticipates this bill as amended will significantly increase the time and effort in documentation management. The office anticipates the need for 6.0 Attorney II FTEs and 1.0

Paralegal FTE to manage this increased workload. For these 7.0 FTEs, salaries total \$485,000, fringe totals \$210,000, and other recurring operating expenses total \$105,000. Therefore, the AG anticipates this bill will increase expenses by \$800,000 beginning in FY 2024-25. The agency will request an increase in General Fund appropriations for this increase.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Amended by the House of Representatives on March 7, 2023

State Expenditure

This bill establishes that when the Office of the Attorney General brings or defends an action in the name of the State of South Carolina the Attorney General acts in the public interest of the State and not as the legal representative or attorney of any department or agency of state government. Therefore, the Attorney General cannot be considered to have possession, custody, or control over state agency documents or electronically stored information. This bill does list an exception for actions brought under Section 39-5-140 on behalf of a department or agency of state government. Further, this bill establishes that at the conclusion of the investigation or litigation, the Attorney General may return, destroy, or maintain information within applicable document retention policies.

This bill will have no fiscal impact on the Attorney General’s Office, as any additional costs can be managed within existing appropriations.

This fiscal impact has been updated to reflect that the House of Representatives adopted the House Judiciary Committee amendment.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A

Amended by House Judiciary on March 1, 2023

State Expenditure

This bill establishes that when the Office of the Attorney General brings or defends an action in the name of the State of South Carolina the Attorney General acts in the public interest of the

State and not as the legal representative or attorney of any department or agency of state government. Therefore, the Attorney General cannot be considered to have possession, custody, or control over state agency documents or electronically stored information. This bill does list an exception for actions brought under Section 39-5-140 on behalf of a department or agency of state government. Further, this bill establishes that at the conclusion of the investigation or litigation, the Attorney General may return, destroy, or maintain information within applicable document retention policies.

This bill will have no fiscal impact on the Attorney General's Office, as any additional costs can be managed within existing appropriations.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director