**South Carolina General Assembly**

125th Session, 2023-2024

**S. 543**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Alexander

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Introduced in the Senate on February 16, 2023

Currently residing in the Senate Committee on **Judiciary**

Summary: IRF coverage

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/16/2023 Senate Introduced and read first time (Senate Journal‑page 5)

 2/16/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 5)

 3/24/2023 Senate Referred to Subcommittee: Malloy (ch), Hutto,
 Campsen, Matthews, Talley, Garrett, M.Johnson

 3/27/2024 Senate Committee report: Favorable with amendment **Judiciary** (Senate Journal‑page 11)

 3/28/2024 Scrivener's error corrected

 5/7/2024 Senate Recommitted to Committee on **Judiciary**

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**VERSIONS OF THIS BILL**

[02/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/543_20230216.docx)

[03/27/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/543_20240327.docx)

[03/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/543_20240328.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

March 27, 2024

S. 543

Introduced by Senator Alexander

S. Printed 03/27/24--S. [SEC 3/28/2024 3:18 PM]

Read the first time February 16, 2023

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The committee on Senate Judiciary

To whom was referred a Bill (S. 543) to amend the South Carolina Code of Laws by amending Section 1‑11‑140, relating to authorization of Fiscal Accountability Authority through the Office of Insurance, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

 Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Section 1-11-460 of the S.C. Code is amended to read:

 Section 1-11-460. (A) The State Fiscal Accountability Authority, through the Division of Insurance Services, is authorized to pay judgments against individual governmental employees and officials, in excess of one million dollars, subject to a maximum of four million dollars in excess of one million dollars for one employee, and a maximum of twenty million dollars in excess of five million dollars in one fiscal year. These payments are limited to judgments rendered under 42 U.S.C. Section 1983, 42 U.S.C. Section 1985, and 42 U.S.C. Section 1986 against governmental employees or officials who are covered by a tort liability policy issued by the Insurance Reserve Fund. These payments are also limited to judgments against governmental employees and officials for acts committed within the scope of employment, as determined by the authority, in consultation with the employee’s or official’s agency head. If a judgment is paid, the payment must be recovered by assessments against all governmental entities purchasing tort liability insurance from the Insurance Reserve Fund.

 (B) The State Fiscal Accountability Authority, through the Division of Insurance Services, is authorized to pay judgments against state governmental employees and officials for conspiracy, conversion, or other causes of action which are not covered by the Insurance Reserve Fund or not protected or limited by the South Carolina Tort Claims Act or Section 1-11-445, if the authority determines that the acts giving rise to the cause of action were within the employee’s or official’s scope of employment or the employee or official was acting in good faith, regardless of the outcome of the proceeding leading to the judgment. Payments may be made regardless of whether the judgment is against the employee or officer in his or her official or individual capacity or is awarded after the employee or official has left employment. If a judgment is paid, the payment must be recovered by assessments against all state governmental entities purchasing tort liability insurance from the Insurance Reserve Fund.

SECTION 2. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill directs SFAA, through the IRF, to provide insurance coverage for state departments, agencies, commissions, boards, and all state personnel for actions under 42 U.S.C Â§1983, conspiracy allegations, conversion claims, and employment law. Any resulting judgment against a state department, agency, institution, commission, or board must be paid from the insurance, provided that the director of the department, agency, institution, commission, or board or his designee certifies in writing that the officers and other personnel acted in good faith, without malice, and within the scope of their employment. The bill requires coverage in the minimum amounts of $1,000,000 per person and per department, agency, institution, commission, or board named in the suit. At the request of the department, agency, institution, commission, or board, the IRF shall obtain coverage in excess of these amounts. The bill states that the provisions of this section do not waive any immunities, defenses, or liability limits applicable to the state and the entities and personnel who are the subject of any claims or litigation.

The fiscal impact of this bill is pending, contingent upon further review by SFAA. To note, the agency has expressed concern that the bill does not allow for assessments of insured agencies, institutions, commissions, or boards to recover payments for a judgment delivered under the aforementioned claims.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 1‑11‑140, RELATING TO AUTHORIZATION OF FISCAL ACCOUNTABILITY AUTHORITY THROUGH THE OFFICE OF INSURANCE RESERVE FUND, SO AS TO PROVIDE FOR EXTENSION OF COVERAGE TO EMPLOYEES OF ENTITIES INSURED BY THE INSURANCE RESERVE FUND PROVIDED THAT EMPLOYEES ACTED IN GOOD FAITH AND WITHIN THE SCOPE OF EMPLOYMENT.

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

SECTION 1. Section 1‑11‑140(A) of the S.C. Code is amended to read:

 Section 1‑11‑140. (A)(1) Notwithstanding any other provision of law, The the State Fiscal Accountability Authority, through the Insurance Reserve Fund, is authorized directed to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards so as to protect the State them against tort liability and to protect these personnel against tort liability arising in the course of their employment. any other damage claims, including, but not limited to, actions under 42 U.S.C § 1983, conspiracy allegations, conversion claims, and employment law. This coverage must be provided and any resulting judgement, including damage awards, attorney’s fees, and costs, must be paid from the insurance, provided that the director of the department, agency, institution, commission, or board or his designee certifies in writing and continues to maintain that the officers and other personnel thereof acted in good faith, without malice, and within the scope of their employment. Coverage shall be provided in the minimum amounts of one million dollars per person and per department, agency, institution, commission, or board named in the suit. At the request of the department, agency, institution, commission, or board, the Insurance Reserve Fund shall obtain coverage in excess of these amounts.

 (2) The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state‑supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies.

 (3) Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above‑referenced students in which case the premiums must be paid from fees paid by students participating in these training programs.

 (4) The authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.

 (5) The provisions of this section do not waive any immunities, defenses, or liability limits applicable to the State of South Carolina and the entities and personnel who are the subject of any claims or litigation.

SECTION 2. This act takes effect upon approval by the Governor.

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