

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: House Bill 1330 (Second Edition)

SHORT TITLE: Amend Electrolysis Practice Act/Fees.

SPONSOR(S): Representative Jeffus

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES:					
General Fund	No Impact to General Fund				
Board of Electrolysis Examiners	\$ 2,375	\$ 2,800	\$ 3,300	\$ 3,750	\$ 4,250
EXPENDITURES					
General Fund					
Corrections	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS	Exact amount cannot be determined; no substantial impact anticipated.				
POSITIONS (cumulative):	Exact amount cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Electrolysis Examiners, Department Of Correction, Judicial Department					
EFFECTIVE DATE: Section 1, when law; Section 2, December 1, 2005					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: House Bill 1330 authorizes the North Carolina Board of Electrolysis Examiners to license laser clinicians, electrology instructors and laser clinician instructors and to certify Board-approved schools of laser, light source, or pulsed-light treatments that meet requirements established by the Board. The bill contains new fees for the application, licensure, and renewal of licensure for laser clinicians, electrology instructors and laser clinician instructors as well as application and certification fees for Board-approved schools of laser, light source, and pulsed-light treatments.

The second addition makes the practice of electrology or pulsed-light treatment without a license punishable as a Class I felony, with all other violations of the act punishable as Class 2 misdemeanors.

ASSUMPTIONS AND METHODOLOGY: The North Carolina Board of Electrolysis Examiners has licensed 30 laser clinicians currently practicing in the state and one laser clinician instructor. There will be one Board-approved school of laser treatments opening in North Carolina pending the passage of this legislation.

The new fees created in this bill for laser clinicians, laser clinician instructors, and Board-approved schools of laser treatments will not initially be set at the statutory maximum, but instead at the levels indicated in the “actual fee” column of the chart below.

Schedule of Proposed Fees		
Application for licensure:	Maximum fee	Actual fee
Laser clinician	\$150	\$50
Laser clinician instructor	\$150	\$50
Electrology instructor	\$150	\$50
Board-approved school of laser, light-source, or pulsed-light treatments	\$500	\$50
Certificate		
Board-approved school of laser, light-source, or pulsed-light treatments	\$250	\$100
Renewal		
Laser clinician	\$200	\$50
Laser clinician instructor	\$75	\$75
Electrology instructor	\$75	\$75

The following chart shows projected fee revenues for the Board of Electrolysis Examiners based on the actual fee amounts listed above. The projection assumes 6 new laser clinicians will come to work in North Carolina each year, and that one new laser clinician instructor will come to the state every other year. These growth rates are based on discussions with members of the Board of Electrolysis Examiners.

Projected Fee Revenues					
Application for licensure	2005-06	2006-07	2007-08	2008-09	2009-10
Laser clinician	\$ 1,500	\$ 300	\$ 300	\$ 300	\$ 300
Laser clinician instructor	50	-	50	-	50
Electrology instructor	300	300	300	300	300
Board-approved school of laser, light-source, or pulsed-light treatments	50	-	-	-	-
Certificate					
Board-approved school of laser, light-source, or pulsed-light treatments	100	-	-	-	-
Renewal					
Laser clinician	-	1,550	1,850	2,200	2,500
Laser clinician instructor		75	75	75	75
Electrology instructor	375	575	725	875	1025
Total fee revenues	\$ 2,375	\$ 2,800	\$ 3,300	\$ 3,750	\$ 4,250

Incarceration Note

This bill expands Article 88A of the General Statutes (Electrolysis Practices Act) to include laser clinicians, instructors, and schools. G.S. 88A-4 currently makes it a Class 2 misdemeanor to practice electrolysis in North Carolina without a license. The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of Article 88A. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. This bill also makes it a Class I felony to practice laser, light source, or pulsed-light treatments in North Carolina without a license.

Department of Corrections

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. If, for example, there were ten Class I convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

In FY 2003-04, 81 percent of Class 2 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Judicial Department

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the bill provides for new Class 2 misdemeanor and Class I felony offenses, AOC is unable to estimate the number of new charges that may result from this bill. For any misdemeanor charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing superior court workload. AOC estimates the cost per charge based on offense class as shown in the table below.

Data regarding the number of charges for practicing electrology or pulsed-light treatments without a license is unavailable because AOC does not maintain a specific offense code for this violation. As a result, they cannot estimate the number of additional charges that the Court system would handle due to this bill. Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor via trial is \$2,322. This cost includes an estimated \$1,373 in jury fees, costs of time in court, and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272.

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	
<i>Class I Felony</i>	\$3,904	\$1,931	\$5,835	-
<i>Class 2 Misdemeanor</i>	\$1,373	\$939	\$2,322	\$272

SOURCES OF DATA: NC Board of Electrolysis Examiners; Sentencing & Policy Advisory Commission; Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

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