

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1737 (Second Edition)

SHORT TITLE: Legal Expense Funds.

SPONSOR(S): Representative Goodwin

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND					
Board of Elections	\$50,000	\$29,556	\$59,113	\$59,113	\$59,113
Correction	No significant impact anticipated. Exact amount cannot be determined.				
Judicial	See pp. 2-4 for Assumptions and Methodology.				
TOTAL EXPENDITURES:	Amount cannot be determined.				
ADDITIONAL PRISON BEDS:	None anticipated. Jail impact is indeterminate.				
(cumulative)*					
POSITIONS:					
(cumulative)	0	.5	1	1	1
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Government; and State Board of Elections.					
EFFECTIVE DATE: January 1, 2008.					
<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: Enacts new Article 22M of GS Chapter 163 requiring an elected official, or another person on the elected official’s behalf, to create a legal expense fund (fund) if given a contribution to fund an existing or potential legal action taken by or against the elected official in his or her official capacity. Money remaining in the fund upon completion of the action must be distributed to the Indigent Person’s Attorney Fee Fund or to the North Carolina State Bar for civil legal services for indigents. Provides for the appointment and removal of a treasurer and for the treasurer’s training. The treasurer must keep detailed accounts and file an organizational report and quarterly reports with the State Board of Elections, each of which must include specified

information. Requires the treasurer to electronically file each report that shows a cumulative total for the quarter exceeding \$5,000 in contributions or expenditures. The treasurer does not have to report the name of individuals making a total contribution of \$50 or less in a quarter. Prohibits contributions in excess of \$50 unless the contribution is in a form that is subject to written verification and provides that non-cash contributions may not be made unless they contain a specific designation of the intended contribution chosen by the contributor. Violation of the new Article is a Class 2 misdemeanor. Makes conforming changes to G.S. 163-278.22(7) and G.S. 163-278.22(8). Effective January 1, 2008. Repeals G.S. 163-278.36 (Elected officials to report funds).

House committee substitute makes the following changes to the first edition:

- Modifies proposed G.S. 163-278.300 (definitions) as follows: (1) expands the definition of elected officer to include an individual seeking an elected office in NC (was, individual serving in an elected office) and defines what constitutes seeking elected office, (2) adds the term expenditure as defined in GS 163-278.6(9), and (3) specifies that the term person does not include the state of NC or any of its political subdivisions.
- Modifies proposed G.S. 163-278.301 by (1) providing that the section (creation of legal expense funds) does not apply to any contribution to the state or any of its political subdivisions, and (2) providing that a violation of G.S. Chapter 163, Article 22M, is a Class 1 misdemeanor (was, Class 2).
- Makes technical changes.
- Makes the act effective January 1, 2008 [was, section 1 (definitions), section 2 (regarding investigations of alleged violations), and section 3 (reporting of apparent violations to district attorney) become effective January 1, 2008, and the remainder becomes effective when it becomes law].

Source: Bill Digest H.B. 1737 (04/18/0200).

ASSUMPTIONS AND METHODOLOGY:

State Board of Elections

In 2006, the General Assembly authorized three time-limited staff to audit campaign finance reports. It is anticipated the 2007 General Assembly will maintain this staffing through December 2008. Based on the additional responsibilities for auditing campaign reports in the bill, it will be necessary for the Board of Elections to convert one of the temporary staff to permanent. The costs for a permanent Audit Specialist (\$48,139 annual salary), including benefits and administrative costs, is \$29,556 for FY 2009 and \$59,113 in future fiscal years.

This bill also requires changes to the campaign finance central software so that these new reports may be processed using this system, which total \$50,000 for FY 2008.

Criminal Offense: H.B. 1737 creates a new Class 1 misdemeanor offense for violation of proposed Article 22M of Chapter 163. Because this is a *new* offense, there is no historical data from which to estimate its impact. However, based on current resource levels, Fiscal Research expects that any new charge and/or conviction will generate some additional cost to the Courts and local governments (administration of jails). However, *the nature of the offense and proposed penalty level (Class 1 misdemeanor) do not suggest a significant fiscal impact.*

Department of Correction: Division of Prisons

Class 1 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state's prison population.¹ The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Thus, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the proposed offense occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its jurisdiction.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

There is no historical data from which to estimate the number of resultant charges for the proposed offense. However, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates increased workload for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated costs per Class 1 misdemeanor trial and plea are \$3,702 and \$243, respectively. These cost estimates account for indigent defense. Actual costs may vary with time requirements and disposition.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; State Board of Elections; and Office of State Construction.

¹ Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball, Brian Reynolds, and Anna Cameron

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: May 23, 2007



Signed Copy Located in the NCGA Principal Clerk's Offices