

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 10 (Second Edition)

SHORT TITLE: Government Reorganization and Efficiency Act.

SPONSOR(S): Senators Apodaca, Hunt, and Rabon

FISCAL IMPACT					
<i>(\$ in thousands)</i>					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>	<u>FY 2017-18</u>
REVENUES*:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
EXPENDITURES*:					
General Fund	\$ (2,027)	\$ (2,547)	\$ (2,669)	\$ (2,704)	\$ (2,737)
Receipts	(3.8)	93.5	(4.0)	(4.1)	(4.2)
Turnpike Authority	(10.2)	(10.5)	(10.8)	(11.0)	(11.3)
POSITIONS (cumulative):					
General Fund	-12	-12	-12	-12	-12
Receipts	0	0	0	0	0
Turnpike Authority	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts; the Departments of Transportation, Environment & Natural Resources, Commerce, Public Instruction, and Administration; the Wildlife Resources Commission, the Office of the Governor; and the General Assembly.					
EFFECTIVE DATE: Unless otherwise noted, when the bill becomes law.					
* Revenues and expenditures are adjusted for inflation using rates from Moodys.com					

BILL SUMMARY:

Senate Bill 10 (S.B. 10), the Government Reorganization and Efficiency Act, eliminates or reorganizes numerous boards or commissions, eliminates 12 Special Superior Court judge positions, and makes changes to the supervision of State Highway patrol members.

S.B. 10 eliminates the following Boards and Commissions:

- The Dietetics/ Nutrition Board;
- The Lottery Oversight Commission;
- The Small Business Contractor Authority;

- The Committee on Dropout Prevention;
- The State Education Commission established in Chapter 116C of the General Statutes;
- The State Education Commission established in Chapter 143 of the General Statutes;
- The National Heritage Area Designation Commission;
- The Governor’s Management Council;
- The Center for Nursing’s Governing Board;
- The Board of Correction;
- The Board of Public Telecommunications Commissioners;
- The Board of Directors for the Certification Entity for Phase II Settlement Funds;
- The Public Funding Council of State Election Commission;
- The Legislative Commission on Global Climate Change; and
- The Arts in Education Commission.

The bill reorganizes or makes changes to the following entities:

- The Coastal Resources Commission;
- The Coastal Resources Advisory Council;
- The Environmental Management Commission;
- The Industrial Commission;
- The Utilities Commission;
- The Wildlife Resources Commission;
- The North Carolina Turnpike Authority;
- Special Superior Court Judges;
- State Board of Elections;
- The State Board of Education;
- The State Lottery Commission; and
- The Charter School Advisory Committee.

Generally, the changes in S.B. 10 are effective when the bill becomes law. Terms for all current members of the Industrial Commission will expire April 15, 2013. Terms for current members of the Coastal Resources Advisory Council and the Wildlife Resources Commission will expire June 30, 2013. Twelve of the Special Superior Court judge positions will be eliminated effective July 1, 2013.

The Assumptions and Methodology section of this Fiscal Memo provides information on noteworthy impacts of the proposed eliminations and reorganizations.

ASSUMPTIONS AND METHODOLOGY:

State Personnel Policies

Severance-related Benefits

The State Personnel Act provides employees, whose positions are eliminated due to “the closing of a State institution or a reduction in force (RIF) [that] will accomplish economies in the State Budget” (G.S. 126-8.5), certain severance-related benefits provided that no suitable re-employment with the State is available. ‘Economies in the State Budget’ is defined as “economies resulting from

elimination of a job and its responsibilities or from a lack of funds to support the job.”¹ Employee protections include severance salary continuation or discontinued service retirement (G.S. 126-8.5) and health insurance coverage for up to 12 months (G.S. 135-48.40(d)(8)). Severance payments are calculated based on State Personnel Commission policies and consider current salary, age, and length of service. Most members of the boards and commissions eliminated or reorganized in S.B. 10 are not salaried State employees; they are voluntary board members and are not provided the protections of the State Personnel Act. Consequently, there are no severance-related benefit costs associated with eliminating or reorganizing these boards and commissions.

However, there are reorganizations outlined in S.B. 10 that affect salaried State employees, including members of the Industrial Commission, the Utilities Commission, and the Special Superior Court Judges. Individuals appointed to the Industrial Commission and the Utilities Commission are salaried State employees but, because S.B. 10 does not eliminate the positions (it ends terms of the current commissioners and replaces them with new commissioners), there are no economies created in the State budget. Therefore, those Commissioners whose terms S.B. 10 ends are not eligible for severance-related benefits. Conversely, the bill eliminates 12 Special Superior Court judges. Eliminating these positions does create economies in the State budget, and the Special Superior Court judges who are reduced in force are eligible for severance-related benefits. Estimated severance-related benefits for the 12 judges are expected to be up to \$564,193. These are the only severance-related expenses associated with this bill.

Unemployment Insurance

Salaried State employees whose positions are eliminated through no fault of their own are entitled to unemployment insurance through the Division of Employment Security. G.S. 98-8(6)(i) defines employment to exclude “service performed ... (b) as a member of a legislative body or a member of the judiciary, of a State or political subdivision thereof or of an Indian tribe” Thus, Special Superior Court Judges are not eligible for unemployment benefits. However, the members of the Industrial and Utilities Commissions whose terms are ended early are likely to be eligible for unemployment benefits. The State’s cost of unemployment benefits is estimated to be up \$181,000. The Department of Employment Security will pay these expenses immediately but, under current unemployment insurance laws, the agencies will not reimburse the Department for these expenses until January 2015.

Eliminated Boards & Commissions

Eliminating the boards and commissions listed in S.B. 10 will not have a substantial fiscal impact on the State. The majority of these boards are made up of volunteer members who receive only per diem, subsistence, and travel expense reimbursements per G.S. 138-5.² Many of the boards have already effectively been eliminated or were never operational, resulting in no fiscal savings for the State. The changes in S.B. 10 are therefore primarily technical. These boards include:

¹ State Personnel Manual, page 1.

http://www.osp.state.nc.us/Guide/Policies/11_Separation/Severance%20Salary%20Continuation.pdf

²In accordance with G.S. 138-5, members of most State boards and commissions are compensated as follows: (1) \$15.00 per day for each day of service; and (2) subsistence and travel expense reimbursement at the rates of State employees per G.S. 138-6(a).

- The Small Business Contractor Authority (Section 1.3)
- The Committee on Dropout Prevention (Section 1.4)
- The National Heritage Area Designation Commission (Section 1.7);
- The Governor’s Management Council (Section 1.8);
- The Center for Nursing’s Governing Board (Section 1.9);
- The Board of Correction (Section 1.10);
- The Board of Public Telecommunications Commissioners (Section 1.11);
- The Board of Directors for the Phase II Settlement Certification Entity (Section 1.12);
- The Public Funding Council of State Election Commission (Section 1.13);
- The Legislative Commission on Global Climate Change (Section 1.13); and
- The Arts in Education Commission (Section 1.13).

Important considerations regarding the elimination of any of these boards are detailed below.

Section 1.1: Dietetics/ Nutrition Board

The Dietetics/ Nutrition Board is the licensing board for North Carolina dietitians and nutritionists. It is an independent entity that is authorized through Article 25 of Chapter 90 to regulate and license practitioners. Eliminating Article 25 of Chapter 90 removes this authority, and eliminates the Board. As an independent licensing board, the State is not involved in the collection of fees or the operations of the Board; employees of the Board are not State employees. Therefore, no fiscal impact to State revenues or expenditures is expected from eliminating this Board. Employees of the board would likely be eligible for unemployment benefits; the cost of these benefits cannot be determined. The impact of eliminating the licensure of dietitians and nutritionists on the profession cannot be determined.

Section 1.2: Lottery Oversight Commission

Section 1.2 repeals the Lottery Oversight Commission. While this Commission has been active in the past year, few reimbursements have been submitted and no recurring funds have been used for reimbursements. Therefore, no fiscal impact is expected from ending the Commission.

Section 1.5: The State Education Commission (G.S. 116C-2);

The State Education Commission established in G.S. 116C-2 consists of the University of North Carolina Board of Governors, the State Community College Board, and the State Board of Education. The Commission serves as “a forum for airing proposals and engaging in board-to-board dialogue about issues the Education Cabinet is addressing.” (G.S.116C-2) No fiscal impact is expected from ending the Commission.

Section 1.6: The State Education Commission (G.S. 143-261-266);

The State Education Commission established in G.S. 143-261 consists of 18 members appointed by the Governor. When created in 1947, the Commission was charged to “study all educational problems to the end that a sound overall educational program may be developed in North Carolina, and to report their findings and make recommendations to the Governor and the General Assembly of 1949.” (G.S. 143-261) The Commission was authorized to have a full-time executive secretary (G.S.

143-265) but there is no record of this position. The Commission has not met in recent years. Consequently, no fiscal impact is expected from ending this Commission.

Reorganization of Certain Boards & Commissions

Section 2.1: Coastal Resources Commission (CRC)

Section 2.1 reduces the number of appointments to the CRC by four, from 15 members to 11 members. This is roughly a 27 percent reduction in membership. Using the Commission's actual expenses from the last four fiscal years to estimate an annual average cost, the reduction in membership will generate savings of \$1,760. These savings are generated from reduced costs associated with per diem, travel and subsistence. This section also changes the appointing authority to include four appointments by the General Assembly and reduces the number of Governor appointments by eight (previously Governor appointed all 15 members). It also ends the terms of the current members when the subsection becomes law and establishes a staggered appointment process.

Section 2.2: Coastal Resources Advisory Council (CRAC)

Section 2.2 reduces the membership of the CRAC by 25, from 45 members to 20 members. This is roughly a 56 percent reduction in membership. Using the Advisory Commission's actual expenses from the last four fiscal years to estimate an annual average cost, the reduction in membership will generate a savings of \$9,880. These savings are generated from reduced costs associated with per diem, travel and subsistence. This section also eliminates the designated appointments and directs the CRC to appoint the advisory members, one-half of whom must reside in counties in the coastal area. Also ends the terms of the current members on June 30, 2013, and sets the new two-year terms beginning on July 1, 2013.

Section 2.3: Environmental Management Commission (EMC)

Section 2.3 reduces the number of Governor appointments to the EMC by six, from 13 to seven. It leaves the number of General Assembly appointments unchanged at six members. The total change is roughly a 32 percent reduction in membership. Using the EMC's actual expenses from the last four fiscal years to estimate an annual average cost, the reduction in membership will generate a minimal savings of \$3,700. The EMC is supported entirely from receipts. This section also ends the terms of the current members when the bill becomes law, reduces the appointment term from six years to four years and establishes a staggered appointment process.

Section 2.4: Industrial Commission

Section 2.4 ends the terms of existing appointees on the Industrial Commission effective April 15, 2013, reduces Commissioners' terms from six to four years, requires Commissioners to have staggered terms, and modifies the General Assembly's role regarding Commissioners' appointments. There is no fiscal impact to Commission operations resulting from these changes but Commissioners are likely eligible for unemployment insurance at an expected cost of up to \$84,000; for additional information on severance-related benefits and costs see the State Personnel Policies section of this memo. While the Industrial Commission is partially funded by receipts, all Commissioner salaries and benefits are paid with General Fund appropriations, which would thereby be the required source of funding for unemployment insurance costs.

Section 2.5: Utilities Commission

Section 2.5 ends the terms of existing appointees on the Utilities Commission, which is supported entirely from receipts. Initial appointments are structured to provide staggered terms in the future. After the initial terms are complete, future appointments will be for six-year terms. The number of Commissioners remains unchanged at seven. As a result, there is no fiscal impact to Commission operations resulting from these changes but Commissioners are likely eligible for unemployment insurance at an expected cost of up to \$97,000; for additional information on severance-related benefits and costs see the State Personnel Policies section of this memo.

Section 2.6: Wildlife Resources Commission (WRC)

Section 2.6 reduces the number of Governor appointments to the WRC by two and increases the number appointed by the General Assembly by the same amount. It also makes the term for all Commissioners two years. There is no net change in membership and therefore no fiscal impact.

Section 2.7: North Carolina Turnpike Authority

Section 2.7 transfers the responsibility assigned to the Authority Board of the North Carolina Turnpike Authority to the Board of Transportation. The elimination of the Turnpike Authority Board will reduce the Turnpike Authority budget by \$10,000. The Board of Transportation meets monthly. Any costs incurred by the Board of Transportation to include a new subcommittee with jurisdiction over Turnpike Authority matters will be absorbed within the existing Board of Transportation budget.

Section 2.8: Special Superior Court Judges

Section 2.8 abolishes 12 judicial positions effective July 1, 2013. Special Superior Court judges currently fill in for elected judges as needed and accept assignments statewide. It is estimated that elimination of these 12 positions will save the General Fund \$2,014,861 in FY 2013-14 increasing to \$2,617,889 in FY 2014-15. The FY 2013-14 savings includes the estimated cost of severance-related benefits, \$564,193. Additional information on severance-related benefits is available in the State Personnel Policies section of this memo. In FY 2012-13, each judge receives base compensation of \$125,875 in salary and \$54,158 in benefits. In addition, the General Assembly appropriates \$8,214 for travel and \$13,628 for other operating costs for each position. Thus, the total FY 2012-13 cost per judge is \$201,875.³ There are 12 Special Superior Court judges, bringing the subtotal to \$2,422,500. Currently, half of the judges receive longevity payments totaling \$120,847 in FY 2012-13. Consequently, total expenditures for these 12 judges are \$2,543,347⁴ in FY 2012-13. Estimated savings for future years are calculated by applying inflation factors from Moodys.com.

To the extent that elimination of these positions leads to an increase in the Superior Court case backlog, the Administrative Office of the Courts (AOC) may choose to contract with emergency judges to replace the Special Superior Court judges. AOC pays \$400 per day for emergency judges (retired judges called up to serve in special circumstances), paid from lapsed salaries. This expense may have an impact on the availability of lapsed salary funds for other special projects in AOC or on reversions at the end of the fiscal year, but will not have an immediate impact on the General Fund.

Section 2.9: State Board of Elections

³ Total per judge base costs: \$125,875 salary + \$54,158 benefits + \$8,214 travel + \$13,628 other costs = \$201,875.

⁴ Total cost for all judges: \$201,875 in salary, benefits, operating costs * 12 + \$120,847 in longevity = \$2,543,347.

Section 2.9 makes changes to the timing of appointments and length of service and will have no fiscal impact.

Section 2.11: State Board of Education

Section 2.11 provides that the Governor shall appoint the Chair of the State Board of Education and that the Chair serves in the role at the pleasure of the Governor. The State Board will continue to elect the vice-chair. This change has no fiscal impact on the State.

Section 2.12: State Lottery Commission

Section 2.12 ends the terms of existing appointees on the State Lottery Commission, which is supported entirely from lottery receipts. New initial appointments are structured to provide staggered terms in the future. The number of Commissioners remains unchanged at nine. As a result, there is no fiscal impact to Commission resulting from these changes.

Section 2.13: The Charter School Advisory Committee

Section 2.13 repeals G.S. 115C-238.29I(d), which allows the State Board of Education to establish a Charter School Advisory Committee. The Committee currently has 15 appointees. Reimbursement of appointees is funded through discretionary funds available to the State Board of Education. There are no staff positions related to the Committee. There is no fiscal impact related to the elimination of the Committee, as both the funding and the Committee operated under the discretion of the State Board of Education. Any savings related to the Committee's elimination would be redirected by the State Board to alternative initiatives.

Additional Governmental Efficiencies

Section 3.1: State Highway Patrol Supervision

Section 3.1 changes who may hold supervisory positions over sworn members of the Highway Patrol such that any person certified as a law enforcement officer under Chapter 17C of the General Statutes in addition to the Governor and the Secretary of Public Safety may supervise members of the Highway Patrol. Previously, only a uniformed member of the Highway Patrol, who had attended basic Patrol school, could supervise sworn members. These changes have no fiscal impact.

SOURCES OF DATA:

Fiscal Research Division
Office of State Personnel
Research Division
BEACON HR Payroll System

TECHNICAL CONSIDERATIONS: none

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Fiscal Research Division: Lanier McRee (lead), Amna Cameron, Jennifer Hoffmann, Kris Nordstrom, Mark Bondo, Marshall Barnes, and William Childs;

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

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