

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1199 (Proposed Committee Substitute)
SHORT TITLE: Set Regulatory Fees/Increase Various Fees
SPONSOR(S):

| FISCAL IMPACT | | | | | |
|---|-------------------|---|---------------------------|-------------------|-------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | (\$million) | | | | |
| | <u>FY 1998-99</u> | <u>FY 1999-00</u> | <u>FY 2000-01</u> | <u>FY 2001-02</u> | <u>FY 2002-03</u> |
| REVENUES | | | | | |
| Utilities Special Fund | 8.34 | (\$.51 million increase over FY 1997-98) | | | |
| Insurance Regulatory Fund | 20.80 | (\$2.69 million increase over FY 1997-98) | | | |
| General Fund | | | | | |
| DHHS Receipt - Autopsy | .60 | .60 | .60 | .60 | .60 |
| Sec. of State Fees | .57 | .59 | .61 | .64 | .67 |
| DENR Animal Systems | (.09) | (.25) | (.31) | (.34) | (.34) |
| Water & Air Quality Account (Permit Fees) | | | | | |
| Fees Change Non-Animal | .35 | .70 | .70 | .70 | .70 |
| Fees Change Animal Systems | .14 | .38 | .46 | .50 | .50 |
| Total W&A Acct. | .49 | 1.08 | 1.16 | 1.20 | 1.20 |
| DENR Water System | | | | | |
| Contract Account | .04 | .08 | .08 | .08 | .08 |
| EXPENDITURES | | | | | |
| General Fund | | | | | |
| DHHS - Autopsy Payments | .24 | .24 | .24 | .24 | .24 |
| DENR Special Funds | | | | | |
| Water & Air Quality Acct. | .49 | 1.08 | 1.16 | 1.20 | 1.20 |
| Water System Contract Acct. | .04 | .08 | .08 | .08 | .08 |
| Counties - Autopsy fees | 1.57 | 1.57 | 1.57 | 1.57 | 1.57 |
| PRINCIPAL DEPARTMENT(S) & | | | | | |

PROGRAM(S) AFFECTED: Department of Insurance, Department of the Secretary of State, N. C. Utilities Commission, Department of Health and Human Services, Department of Environment and Natural Resources

EFFECTIVE DATE: Part V (water quality fees) becomes effective January 1, 1999. The remainder of the act is effective July 1, 1998. Section 8 applies to autopsies or other studies performed on after that date.

BILL SUMMARY: Parts one and two of the bill set the public utility regulatory fee and the insurance regulatory fee. Part three increases several fees collected by the Secretary of State and creates a new fee for fairness hearings conducted by the Secretary of State. Part four increases the fee paid by the state and counties for conducting an autopsy. Part five revises the schedule of permit fees under the Water Quality program and places the new fee schedule into the statutes.

ASSUMPTIONS AND METHODOLOGY:

Part One: Utilities Commission and Public Staff Fund

Part one, section one of the bill sets the utilities regulatory fee at 0.09% of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1998. **(This maintains the current 0.09% rate set in fiscal year 1997-98.)** The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

Per G.S. 62-302(b)(2), the percentage rate established by the General Assembly and assessed by the Commission "may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund." Combined operations of the Commission and the Public Staff in FY 1998-99 will require expenditures of not less than \$9,297,845. Revenues generated by the utilities regulatory fee will amount to \$8,340,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account.

The Utilities Commission indicates that the status of the Accumulated Fee Margin Reserve is as follows:

| | |
|---|----------------|
| Balance as of 6/30/98 | \$ 8,990,813 |
| Add: Estimated Collections and Interest for FY 1998-99 | \$ 9,356,285 |
| Total Funds Available | \$18,347,098 |
| Less: Estimated FY 1998-99 Expenditures Reimbursable from Fees | (\$9,297,845)* |
| Estimated Margin Reserve for Period Ending 6/30/99 | \$ 9,049,253 |

** Not included in FY 1997-98 and 1998-99 are the estimated costs incurred by the Legislative Study Commission on the Future of Electric Service in North Carolina. Study Commission expenses are to be refunded from the Utilities Commission and Public Staff Fund (Chapter 483, Section 10.1, 1997 Session Laws). The amount is expected to be in excess of \$450,000.*

Based on the projected Fee Margin Reserve, the fee of 0.09% should be sufficient to cover the operations of the Utilities Commission and Public Staff.

Part Two: Insurance Regulatory Fund

Part two, section two of the act sets the insurance regulatory charge effective for calendar year 1998 at 6.5%. (This is a decrease from the 8.75% rate established for calendar year 1997.) The charge is based on a percentage of a company’s premiums tax liability for the taxable year. Every insurance company subject to the premiums tax levied under G.S. 105-228.5 is required to pay the insurance regulatory charge. The percentage rate, set annually, cannot exceed the rate necessary to generate funds sufficient to defray the estimated cost of operating the Department of Insurance for the upcoming year. The revenue collected from the charge is deposited into the Insurance Regulatory Fund invested with the State Treasurer and managed by the Office of State Budget and Management. Funds generated by the regulatory charge are used to reimburse the General Fund for the amount appropriated to the Department of Insurance.

| | <u>FY 1996-97</u> | <u>FY 1997-98</u> | <u>FY 1998-99</u> |
|------------------------------|-------------------|-------------------|-------------------|
| Estimated Gross Premiums Tax | \$208 mil. | \$207 mil. | \$320 mil. |
| Insurance Regulatory Charge | <u>x .075</u> | <u>x .0875</u> | <u>x .065</u> |
| | \$15.08 mil. | \$18.11 mil. | \$20.8 mil. |

If the gross premiums tax continues to increase through calendar year 1998 then, it is possible the rate for 1999 could be less than the proposed 6.5% rate for 1998.

Part Three: Secretary of State Fees

Section 3 - Notary Commissions (GS 10A-7)

The fee to obtain and to renew a notary commission is increased from \$25 to \$30. The Secretary of State reports annual average increases of 2.72% in the number of initial appointments over the past five fiscal years (from 93-94 to 97-98). Based on the 97-98 figure of 14,147, the number of initial appointments for 1998-99 through 2002-03 is projected using a 2.72% annual average increase. The numbers below represent the projected number of initial appointments in the out years.

| <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|----------------|----------------|----------------|----------------|----------------|
| 14,532 | 14,927 | 15,333 | 15,750 | 16,178 |

The additional revenue from the fee increase is calculated by multiplying the number of initial appointments (above) by the \$5 fee increase. The projected revenue by fiscal year appears below:

| <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|----------------|----------------|----------------|----------------|----------------|
| \$72,660 | \$74,635 | \$76,665 | \$78,750 | \$80,890 |

The Secretary of State reports an annual average increase of 8.35% in the number of notary commission reappointments for the past five fiscal years (93-94 to 97-98). Relying on the 97-98 figure of 19,937 reappointments, the number of reappointments for 1998-99 through 2002-03 is projected below:

| <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|----------------|----------------|----------------|----------------|----------------|
| 21,602 | 23,406 | 25,360 | 27,478 | 29,772 |

The additional revenue from the \$5 increase in the notary commission reappointment fee is shown below (by fiscal year).

| <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|----------------|----------------|----------------|----------------|----------------|
| \$108,010 | \$117,030 | \$126,800 | \$137,390 | \$148,860 |

Sections 4 & 6 - Investment Securities (GS 78A-28(b) & 31(a))

The registration/filing fee for companies selling investment securities and mutual funds is set at a flat \$2,000 rate. The current fee is based on volume and is set at 1/10 of 1% of the maximum aggregate offering price, not to exceed \$1,600. The Secretary of State reports 550 initial mutual fund registrations during the 1997 calendar year, and projects 650 such registrations for the 1998 calendar year. The projected 650 registrations x \$400 (the difference in the current maximum and the proposed \$2,000 fee) yields \$260,000 in additional revenues from the flat fee for FY 1999. The Secretary of State did not provide registration projections for the out years. Relying on the 1998 figure of 650 registrations, results in a stable estimate of \$260,000 in additional revenues from the increase for the 1998-99 to 2002-03 years.

Section 5 - Fairness Hearings (GS 78A-30(g))

The new fee for fairness hearings is based upon the time and expenses incurred by the Secretary of State staff. The fee shall be a minimum of \$500 and a maximum of \$5,000. The Director of the Securities Division of the Secretary of State conducts between 30-35 hearings annually. It takes the Director from a minimum of 5-6 hours to a maximum of between 18-20 hours to prepare for and conduct a hearing, and to generate a post-hearing Order. The Secretary of State recommends assessing a flat \$500 fee for all hearings, and \$200 per hour for all staff time devoted to a hearing in excess of five hours, up to a maximum of \$5,000.

Relying on the Department's reported experience above, 13 hours of staff time (the midpoint) is devoted to the average hearing. The expected revenue as a result of assessing fees for Fairness Hearings follows:

- 1.) Multiply the expected number of cases times the \$500 flat fee.
 - a.) Given the reported 30-35 hearings per year, 32.5 hearings (the midpoint) is projected for the out years.
 - b.) The \$500 fee multiplied by 32.5 yields \$16,250 in revenue from the flat fee.

- 2.) Multiply the \$200 hourly fee times the number of hours in excess of five.
 - a.) The average (or expected) 13 hours per hearing projected above is used to determine the number of hours in excess of five. On average, Secretary of State staff expends an extra eight hours (in excess of five) on individual hearings.
 - b.) The \$200 hourly fee times the eight hours (in excess of five) yields \$1,600 in revenue per hearing.
 - c.) The \$1,600 revenue per hearing times the expected 32.5 hearing yields \$52,000.
- 3.) Add the \$16,250 to the \$52,000 for a total of \$68,250 in revenue from Fairness Hearings fees.

Section 7 - Authentications (GS 147-37)

Document Certification Fees (Authentications and Apostilles) are increased from \$6.25 per document to \$10 per document. The Secretary of State reports that there were 5,359 total documents certified in FY 1996, 11,249 in FY 1997, and 13,200 projected for FY 1998. The Department experienced an annual average increase in document certifications of 64% for the past two fiscal years. The 17% increase from FY '97 to FY '98 appears to be a much more reliable measure of change than the 110% increase from FY '96 to FY '97. This note relies on the 17% increase to calculate a projected 15,444 document certifications for FY 1999. The 15,444 document certifications x \$3.75 (the difference in the fee) yields \$57,915 in additional revenues from the fee for FY 1999. The additional revenue projections for the out years appear below:

| <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|----------------|----------------|----------------|----------------|----------------|
| \$57,915 | \$67,761 | \$79,280 | \$92,757 | \$108,526 |

The total additional revenue resulting from Documentation Certification, Securities Registration, fairness hearings, and Notary Commission fee increases in the Department of the Secretary of State appear below:

| | <u>1998-99</u> | <u>1999-00</u> | <u>2000-01</u> | <u>2001-02</u> | <u>2002-03</u> |
|-------------------|----------------|----------------|----------------|----------------|----------------|
| Notary fees | \$180,670 | \$191,665 | \$203,465 | \$216,140 | \$229,750 |
| Securities | 260,000 | 260,000 | 260,000 | 260,000 | 260,000 |
| Fairness hearings | 68,250 | 68,250 | 68,250 | 68,250 | 68,250 |
| Authentication | 57,915 | 67,761 | 79,280 | 92,757 | 108,526 |
| | \$566,835 | \$587,676 | \$610,995 | \$637,147 | \$666,526 |

Part Four: Autopsy Fee

Section eight increases the fee for autopsies from \$400 to \$1,000. According to the Office of the Chief Medical Examiner, there are approximately 3,570 medical examiner autopsies performed each year. This number is expected to remain constant. Of the medical examiner autopsies performed each year, approximately 2,010 are performed by private contracted pathologists,

1,260 are performed at the Office of the Chief Medical Examiner in Chapel Hill, and 300 are performed at the Mecklenburg County Office. Payment for these autopsies is as follows:

| | |
|------------|---|
| 402 | paid by the state to private contracted pathologists |
| 1,608 | paid by the county to private contracted pathologists |
| 1,008 | paid by the county to the state |
| <u>552</u> | no payment, conducted by the state for the state |
| 3,570 | TOTAL AUTOPSIES PERFORMED |

The increase in costs paid by the state to private contracted pathologists is computed below:

| |
|------------------------------------|
| 402 x \$400 = \$160,800 |
| - 402 x \$1,000 = <u>\$402,000</u> |
| \$241,200 |

The cost increase for the state of \$241,200 is offset by the autopsy fees paid to the state from the counties. As shown above, the counties pay the Office of the Chief Medical Examiner for 1008 autopsies each year. The increased revenue to the state generated by a \$600 increase in the autopsy fee is \$604,800.

The increased cost for counties is \$1,569,600 a year based on a \$600 for the 2,616 autopsies the counties pay for each year. 1,608 autopsies are performed each year by private contracted pathologists and 1,008 autopsies are performed by the state.

Part Five: Water Quality Fees

Funding for programs administered by the Water Quality Section in the Department of Environment and Natural Resources (DENR) is provided through three sources: federal funds, state general fund appropriations, and permit fee receipts. In 1996 the Division of Water Quality projected a shortfall in water quality permit fee receipts. In response, the General Assembly appropriated \$1 million for the 1997-98 fiscal year in a special reserve fund to help offset any unrealized permit fee revenue and to allow for additional analysis of a variety of water quality funding issues. (Based on year to date actual collections, the Office of State Budget and Management does not expect the Division to draw funds from the reserve for the 1997-98 fiscal year). The Environmental Review Commission (ERC) created the Water Quality Funding Working Group comprising representatives of the regulated community to evaluate the state's water quality programs, funding sources and budgetary needs, as well as make recommendations to improve the current funding structure. Part V of this bill is a result of the working group's effort and is recommended by the ERC.

Focus on water quality funding needs has shifted from total budgetary requirements to determining an appropriate level of operating support, which includes data processing and communications, travel, supplies, equipment and other general operating expenses. The Water Quality Section's authorized budget, excluding pass-through grants and aid, for the 1997-98 fiscal year is approximately \$14.5 million. This aggregate amount is consistent with the Division's calculation of a "healthy budget." However, salary and fringes for personnel in the Water Quality Section account for over 80% of the total budget. According to the Division,

additional operating support is needed by the Water Quality Section to carry out their statutory obligations. As such additional revenue resulting from fee increases proposed in this bill will be used primarily for operating expenses.

Part V of this bill revises the schedule of fees for water quality permits for non-animal facilities, animal waste management systems, and certification and training requirements. The new fee schedule is also being codified in the general statutes. The bill also provides that revenue generated by animal waste operations be credited to the Water and Air Quality Account, rather than the General Fund as required by current law.

The differences in the current permit fees (at the maximum compliance level) and the permit fees proposed in the legislation are shown in the chart below. The number of facilities in each category was provided by the Division of Water Quality, and shows the number of each type of non-animal facility permitted in 1998. The Division assumes that the number of facilities in each non-animal category will remain relatively constant over time. The numbers given for animal waste management facilities represent the number of operations expected to be permitted annually, once all facilities are in the permitting system. The Division began permitting animal waste systems in January 1997 and plan to have all systems permitted by January 2002. The number of facilities, and the associated revenue streams, are then expected to remain relatively constant over time.

| Activity | # of Facilities (compliance maximums) | Current Fees | Proposed Fees |
|---|--|---------------------|----------------------|
| Category A (subject to annual fees) | | | |
| Major Individual NPDES Permits | 250 | \$1,125 | \$2,865 |
| Minor Individual NPDES Permits | 1,470 | 600 | 715 |
| Single Family Residences | 1,095 | 48 | 50 |
| Stormwater & Wastewater Discharge | | | |
| General Permits | 3,000 | 80 | 80 |
| Recycle Systems | 170 | 300 | 300 |
| Major Nondischarge Permits | 301 | 1,000 | 1,090 |
| Minor Nondischarge Permits | 334 | 600 | 675 |
| Animal Waste Management | | | |
| Animal Permits (Small Operations) | 295 | \$50 | \$50 |
| Animal Permits (Medium Operations) | 2106 | 100 | 150 |
| Animal Permits (Large Operations) | 565 | 200 | 300 |
| Category B (subject to project and annual) | | | |
| Major Consent Special Orders | 15 | 0 | \$500 |
| Minor Consent Special Orders | 65 | 0 | 250 |
| | 45 | 400 | 400 |
| Category C (application fees) | | | |

| | | | |
|--------------------------------------|------|-------|-------|
| Sewer Extensions | 1000 | \$400 | \$400 |
| State Stormwater | 450 | 385 | 420 |
| Water Quality Certifications - Major | 375 | 0 | 475 |
| Water Quality Certifications - Minor | 375 | 0 | 200 |
| Petroleum Contaminated Soils | 30 | 400 | 400 |

Fee Change: Non-Animal Facilities: The change in Water Quality permit fees will alter revenue to the Division of Water Quality beginning in FY 1998-99. Using the above permit fees, and excluding the animal facilities, the total revenue generated from fees addressed in the bill will be approximately \$1.8 million in 1998-99. (This represents 6 months of the fiscal year. The annual total, as shown below, is \$3.6 million.). Because the statute sets the fees, and the number of facilities is constant, the revenue associated with non-animal facilities is expected to remain constant over time.

| Category | Revenue Under Bill |
|--|---------------------------|
| Category A - Subject to Annual Fees (Does not include animal permits in this category). | \$2,666,590 |
| Category B - Subject to Project and Annual Fees. | \$41,750 |
| Category C - Application Fees. | <u>\$854,125</u> |
| TOTAL NON-ANIMAL FEES | \$3,562,465 |

In FY 1997-98 water quality permits are expected to generate \$2.8 million in revenues. The three year average revenue collected from water quality permits is \$2.9 million. This three year average is used as an approximation for future years. The Division believes that there will be no growth in non-animal permits in future years. Because of the effective date of the legislation, one-half of the three year average amount (\$1.45 million) is used to estimate the net revenue increase for FY 1998-99. As such, the net revenue gain associated with non-animal permits is estimated at \$350,000 in FY 1998-99, and \$700,000 in succeeding years. Under current law, non-animal system permit fees are placed in a special non-reverting Water and Air Quality Account within DENR.

Fee Change: Animal Facilities: The Division of Water Quality began permitting animal waste management facilities January 1997. The Division assumes that all animal waste systems will be “on line,” paying annual permit fees, by January 2002. As such, approximately 20% of the total number of facilities (and their revenue) will be added each year. Because the legislation instructs the Division to permit the largest facilities first, and larger operations are required to pay higher fees, revenue growth slows as additional facilities are phased in each year. This note assumes calendar year revenue additions will be as follows: 23% in 1997, 22% in 1998, 20% in 1999, 20% in 2000, and 15% in 2001. After January 2002 the revenue is expected to remain constant under both the current system and the bill. Once 100% of the animal facilities are permitted, the bill will result in \$161,800 of additional revenue, when compared to the existing fee structure. In the interim years an adjustment is made to convert the calendar year figures to fiscal year estimates. The bill requires these funds to be credited to the non-reverting Water and Air Quality Account.

| <u>Actual</u> | <u>Current</u> | <u>Proposed</u> | <u>Change</u> |
|---------------|----------------|-----------------|---------------|
| FY 1996-7 | \$ 38,910 | \$ 57,517 | \$ 18,607 |
| FY 1997-8 | \$ 115,039 | \$ 170,051 | \$ 55,012 |
| FY 1998-9 | \$ 186,093 | \$ 275,083 | \$ 88,990 |
| FY 1999-0 | \$ 253,763 | \$ 375,113 | \$ 121,350 |
| FY 2000-1 | \$ 312,974 | \$ 462,639 | \$ 149,665 |
| FY 2001-2 | \$ 338,350 | \$ 500,150 | \$ 161,800 |
| FY 2002-3 | \$ 338,350 | \$ 500,150 | \$ 161,800 |

Training and Certification: Currently the Division of Water Quality offers a number of training and certification programs, and charges a fee for their efforts. The working group recommended that the fees associated with these training and certification activities be increased. The Division provided a 1998-99 estimate of the number of operators. The number of certification and training participants was then increased annually by the forecasted population growth rate (approximately 1%) to reflect expected growth in the program. The 1998-99 revenue projections for training and certification are as follows:

| Fee Type | Existing Fee | Current Revenue | Proposed Fee | Proposed Revenue | Change |
|--------------------------------------|-------------------------|----------------------------|-------------------------|-----------------------------|---------------|
| Examination Fees (non- animal) | \$75 | \$237,300 | \$85 | \$268,940 | \$31,640 |
| Examination Fees (animal) | \$10 | \$5,000 | \$25 | \$12,500 | \$7,500 |
| Renewal Fees (non-animal) | \$30 | \$242,430 | \$35 | \$282,835 | \$40,405 |
| Renewal Fees (non-animal) | \$10 | \$35,000 | \$10 | \$35,000 | - |
| TOTAL | | \$519,730 | | \$599,275 | \$79,545 |

One-half of the \$79,545 is actually cited in the fiscal chart, as a result of the January effective date. These funds are credited to the non-reverting Water System Contract Account in the Department.

TECHNICAL CONSIDERATIONS:

Part V: Water Quality Fees

Under current law revenue from animal waste system permits is credited to the General Fund. This bill revises the current practice by directing that the revenue be credited to the Water and Air Quality Account. This change will result in a revenue loss to the General Fund. The estimated reduction in General Fund revenue, as presented in this note, is based on the existing fee schedule, not the revised schedule being proposed. As mentioned above, the Division assumes that future permit revenue will remain constant since they do not expect significant changes at the federal level. However, it should be noted that any change in federal regulations

will have an impact on North Carolina water quality permit revenue. These federal changes, in past years, have created a positive growth trend in permit revenue.

FISCAL RESEARCH DIVISION

733-4910

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DATE: June 29, 1998



Signed Copy Located in the NCGA Principal Clerk's Offices