

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1115 (First Edition)

SHORT TITLE: Election Administration Amendments.

SPONSOR(S): Representatives Ross and Moore

| FISCAL IMPACT | | | | | |
|---|---|-------------------|---------------------------|-------------------|-------------------|
| | Yes (X) | 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> |
| GENERAL FUND | | | | | |
| Correction | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| Judicial | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| LOCAL GOVERNMENTS | Exact amount cannot be determined; no substantial impact anticipated. | | | | |
| ADDITIONAL PRISON BEDS* | No additional prison beds anticipated. | | | | |
| POSITIONS: (cumulative) | No additional positions anticipated. | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: | Department of Correction; Judicial Branch; Local Governments | | | | |
| EFFECTIVE DATE: | Sections 1, 3, 4, 5, 7, 11: January 1, 2006; All other sections: Upon Ratification. | | | | |
| <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:¹ This bill would amend Chapter 163 of the General Statutes to modify provisions relating to the administration and conduct of elections.

¹ Adapted from "Bill Analysis," William R. Gilkeson. Research Division. April 13, 2005.

Section 1 Political party chairs would be allowed to designate runners to pick up voting lists in polling locations. Candidates and official polling place observers would be prohibited from being designated as runners.

Section 2 Current statutes do not expressly address whether a county may provide more than one voting system per precinct. This bill provides that the Executive Director of the State Board of Elections may permit a county to use more than one voting system in a precinct where doing so would be necessary to comply with state or federal law.

Section 3 The Executive Director of the State Board of Elections would be authorized to move a voter's registration to the appropriate county administratively, with notice to the voter, if the voting county has changed due to a county line adjustment. The voter, who has not moved, would not need to submit a new voter registration application.

Section 4 Current law sets certain deadlines for filing an election protest at 6 p.m. on the second day after the county canvass. Most county board of elections offices close at 5 p.m. and this bill would change the statutory deadline to 5 p.m. to reflect the regular office hours.

Section 5 Under current law, a voter at the polls on election day, whose illiteracy or disability requires them to have assistance to vote, may receive assistance from anyone other than their employer or union representative. If not illiterate or disabled, a voter may receive assistance from a specified group of relatives. At a one-stop site, however, a voter may receive assistance only from a county board of elections member, an election director, a board employee, a near relative of the voter, or the voter's legal guardian. Any other individual providing assistance to a voter at a one-stop site would be guilty of a Class I felony under G.S. 163-226.3. This bill would amend the rules pertaining to a one-stop voting site to be equivalent to those at the polls on election day.

Section 6 Presently an unaffiliated candidate must collect signatures from voters on a petition in number equal to two percent of all of the registered voters in the State. This bill would make the statewide unaffiliated threshold two percent of the latest Governor's race turnout, which is identical to the requirement for a new party petition.

Section 7 Current law does not regulate how individuals may be paid for registering voters during a voter registration drive. This bill would make it a Class 2 misdemeanor to pay or accept payment for registering voters when the pay is made on a per voter basis.

Section 8 Currently, if a person moves more than 30 days before an election within the county where registered to vote but does not notify the board of elections of the move, the person may show up at a one-stop voting place and vote a traditional ballot. This bill clarifies that a voter who has not reported a move within the county does not, on that account, need to vote a provisional ballot at a one-stop site.

Section 9 The current statute regulating one-stop voting requires that officials at a one-stop site furnish voters, who are there voting in person, with instructions on how to vote mail absentee. The bill removes the language as inapt.

Section 10 This section amends G.S. 163-107(a) to specify that a candidate's filing fee is one percent of the annual starting salary of the office sought.

Section 11 When a voter changes his or her county of registration, the State Board of Elections would be required to notify the county election board in the old county of the registration change. The board in the old county would then be required to cancel the previous registration.

Section 12 This section of the bill would amend G.S. 163-82.10(b), which addresses access to voter registration records, to reflect technological changes since the statute was originally codified.

Section 13 Current law requires the county board of elections to hold its canvass on the 7th day after a primary or election. This bill would move the county canvass to the 10th day for even-year general elections.

Section 14 This section of the bill clarifies that the State Board of Elections must permit the use of electronic registration records in the voting place in lieu of paper pollbooks or other records.

ASSUMPTIONS AND METHODOLOGY:

General

Section 5 of this bill would modify the specified list of individuals authorized to provide assistance to voters at a one-stop voting site and would, thus, alter the types of individuals eligible to commit a Class I felony for illegally providing such assistance. Section 7 of the bill would create a new Class 2 misdemeanor for paying or accepting payment for registering voters on a per voter basis. As these provisions modify criminal offenses, they would be expected to lead to changes in adjudication and incarceration rates and an associated fiscal impact to the Department of Correction and the Judicial Branch. However, as the provisions of both sections would not be expected to lead to a significant number of new felony or misdemeanor charges or convictions, the fiscal impact is not anticipated to be substantial.

Current G.S. 163-274(1) and G.S. 163-274(10) provide that it is a Class 2 misdemeanor for specified officials to fail to perform certain duties related to the administration of elections. As several provisions of the bill would expand the set of duties prescribed for some of these officials, additional Class 2 misdemeanor charges and convictions could result under G.S. 163-274(1) or G.S. 163-274(10) for failure in the performance of those duties as required by law. However, given that the class of eligible offenders is small and the scope of behavior encompassed by these offenses is not expanded significantly, the number of new Class 2 misdemeanor charges and convictions under G.S. 163-274 as a result of this bill is not expected to be substantial.

Department of Correction

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.*

Section 5 It is unknown whether altering the specified list of individuals allowed to assist voters at the polls under G.S. 163-226.3 would lead to a decrease, no change, or an increase in the number of offenders sentenced as Class I felons for illegally assisting voters. As such, no estimate of the fiscal impact associated with this provision is available. The Administrative Office of the Courts does not maintain an offense code for violations of present G.S. 163-226.3, which is some indication that the current offense is infrequently charged and rarely results in convictions.

Section 7 Because this section would provide for a new Class 2 misdemeanor, the Sentencing Commission has no historical data from which to estimate the impact on local jail populations. As noted in the “General” section, additional Class 2 misdemeanor convictions could also result under G.S. 163-274 for failure in the performance of certain duties for specified officials. In FY 2003-04, 15 percent of Class 2 misdemeanors resulted in active sentences with a maximum length of 60 days and an average length of 23 days. Offenders with active sentences less than thirty days are housed in county jails at county expense, and the Department of Correction (DOC) reimburses the county for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender per day. Because Class 2 misdemeanants serving active time as a result of this offense would be housed in county jails, this provision would not impact prison population.

The remaining 85 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 Branch

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.

Section 5 It is unknown whether the modification to the list of individuals authorized to assist at the polls provided by Section 5 of the bill would lead to a decrease, no change, or an increase in the number of individuals charged with a Class I felony for illegally assisting voters. As such, no estimate is available with respect to the fiscal impact of this provision. As noted in the DOC section, the lack of an offense code for current violations of G.S. 163-226.3 may be some indication that the offense is presently infrequently charged.

Section 7 As this section provides for a new criminal offense, no data is available with which to estimate the number of additional Class 2 misdemeanor charges the Courts would process as a result of this bill. However, AOC anticipates that the majority of voter registration campaigns would comply with the requirements of this legislation and would thus expect relatively few new charges to result from this bill.

As noted in the “General” section, additional Class 2 misdemeanor charges could also result under G.S. 163-274 for failure in the performance of certain duties for specified officials. The number of

additional charges, however, is not expected to be substantial as the bill would only refine current law and not greatly expand the scope of behavior encompassed by this offense.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process a single Class 2 misdemeanor charge 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 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 per plea.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



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