

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 612 (First Edition)

SHORT TITLE: Amend Lobbying Laws.

SPONSOR(S): Senator Rand

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Judicial					
LOCAL GOVERNMENTS					
ADDITIONAL PRISON BEDS*					
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
EFFECTIVE DATE: January 1, 2006					
<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: This bill would amend Article 9A of Chapter 120 of the General Statutes to increase the regulation of and reporting requirements related to legislative lobbying activities. The bill would additionally add Article 4C to Chapter 147 of the General Statutes to require registration and reporting of lobbying of Executive Branch officials and agencies. Among other things, the bill would prohibit a legislative or executive lobbyist or lobbyist principal from giving or paying for certain gifts to legislators or executive branch officials, their immediate family, or legislative and Executive Branch staff and employees. Any willful violation of Articles 9A or 4C of Chapters 120 and 147, respectively, would constitute a Class 1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

Because this bill would expand the scope of an existing criminal offense for violations related to legislative lobbying and create a new criminal offense for violations related to executive lobbying additional charges and convictions would be expected to result from this legislation. However, the Administrative Office of the Courts (AOC) does not maintain a specific offense code for current violations of Chapter 120, which is some indication that the existing offenses are infrequently charged and rarely result in convictions. As such, few additional charges and convictions would be expected due to this bill, and no substantial impact is anticipated to result from this legislation.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

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.*

This bill would a) expand the scope of an existing Class 1 misdemeanor offense for violations related to legislative lobbying activities, and b) create a new Class 1 misdemeanor for violations related to Executive Branch lobbying. Because these offenses would apply to additional individuals and types of behavior, the Sentencing Commission has no historical data from which to estimate the number of convictions that might result from this legislation.

- In FY 2003-04, 19 percent of Class 1 misdemeanors resulted in active sentences and the average active sentence length was 43 days.
- Offenders with active sentences of less than ninety days are housed in county jails.
- DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender. If, for example, one offender were sentenced to 43 days active time as a result of this bill, costs to DOC to reimburse the county would be \$774.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction (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.

Because most Class 1 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation is not expected to significantly impact prison population.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts 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.

As this bill would expand the scope of an existing Class 1 misdemeanor offense and create a new Class 1 misdemeanor offense, no data is available to estimate the number of new charges that might result from this bill. Due to the lack of an offense code for current violations of Chapter 120—an indication that there are presently few charges for violations related to legislative lobbying—AOC does not anticipate a substantial number of new charges to result from this bill. The bill would additionally authorize a civil penalty of up to \$5,000 per violation, in addition to the criminal penalty, for false or incomplete reporting as required by Articles 9A and 4C of Chapters 120 and 147, respectively, in relation to executive or legislative lobbying.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 1 misdemeanor is \$5,000 per trial and \$219 per guilty plea. The trial cost includes an estimated \$2,627 in jury fees, costs of time in court, and attorney costs and an additional \$2,373 in indigent defense. Based on prior-year data, the majority of any new Class 1 misdemeanor charges are likely to be settled by 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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Signed Copy Located in the NCGA Principal Clerk's Offices