

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 99 (Second Edition)

SHORT TITLE: Taxpayer Cost Recovery.

SPONSOR(S): Representative Blust

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	<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>
REVENUES	(See "Assumptions and Methodology")				
EXPENDITURES					
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Revenue.				
EFFECTIVE DATE:	September 1, 2007				

BILL SUMMARY: Amends GS 105-241.2 and GS 105-267 directing the Tax Review Board or the court, respectively, to award costs to a taxpayer in tax law litigation under the following conditions: (1) the taxpayer is the prevailing party; (2) the taxpayer has exhausted all administrative remedies; (3) specific net worth limits are not exceeded (\$2 million for individual taxpayers or an estate, \$7 million for other taxpayers); (4) the taxpayer provides information requested by the Department of Revenue in a timely manner; and (5) the Tax Review Board makes the final determination of the reasonable administrative costs.

Under the bill the reimbursement is paid from the General Fund.

ASSUMPTIONS AND METHODOLOGY: Discussions with the Department of Revenue over the years suggests that the impact of the bill will not be significant for the following reasons:

- (1) The Department of Revenue will generally not take a case to the Tax Review Board or the courts unless they feel that the State is likely to prevail. This is especially true given the language in the bill that states "the Department of Revenue is presumed to be substantially justified if the Department of Revenue follows the applicable published guidelines in the proceeding or has prevailed in the courts on substantially similar issues"

(2) There may be other statutes dealing with court proceedings that are used to award costs to taxpayers

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

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DATE: May 16, 2007



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