

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 150 (Third Edition)

**SHORT TITLE:** Outdoor Adv. Vegetation Removal Changes.

**SPONSOR(S):** Senator Jenkins

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<u><b>FY 2007-08</b></u>	<u><b>FY 2008-09</b></u>	<u><b>FY 2009-10</b></u>	<u><b>FY 2010-11</b></u>	<u><b>FY 2011-12</b></u>
<b>REVENUES:</b>					
<b>Department of Transportation</b>					
<b>- Vegetation Removal</b>					
Permit Increase	\$23,333	\$40,000	\$40,000	\$40,000	\$40,000
<b>- New Advertising Structure</b>					
Fees - \$30 increase	\$1,750	\$3,000	\$3,000	\$3,000	\$3,000
<b>- Increased Annual</b>					
Advertising Renewal Fee	\$140,000	\$240,000	\$240,000	\$240,000	\$240,000
<b>- Current Restoration Fees for</b>					
Legally cutting trees	(\$23,300)	(\$40,000)	(\$40,000)	(\$40,000)	(\$40,000)
<b>- Discontinuing current</b>					
Fees for illegal cutting	(\$11,600)	(\$20,000)	(\$20,000)	(\$20,000)	(\$20,000)
<b>**Restoration fees are currently assessed at approximately \$850,000 annually; however, only a small amount is ever received.</b>					
<b>- New Restoration</b>					
<b>Fee @ \$2,000/tree w/ a</b>					
<b>Cap of \$30,000 for illegal</b>					
Cutting	\$58,333	\$100,000	\$100,000	\$100,000	\$100,000
<b>**New restoration assessment fees are estimated to be approximately \$640,000 annually; however, the collection rates for current fee has been very low and it is estimated that with increased penalties the amount collected will be approximately 15%, up from 2% collections.</b>					
<b>Net New Revenues</b>	<b>\$188,516</b>	<b>\$323,000</b>	<b>\$323,000</b>	<b>\$323,000</b>	<b>\$323,000</b>
<b>EXPENDITURES:</b>					
	-	-	-	-	-
<b>Correction:</b>					

**No significant impact is anticipated. Exact amount cannot be determined. See Assumptions and Methodology, pp. 3-4**

**Judicial:**

**ADDITIONAL PRISON BEDS:** None anticipated; impact on local jails cannot be quantified.

**POSITIONS (cumulative):** None anticipated.

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Department of Correction; Judicial Branch; Local Government

**EFFECTIVE DATE:** December 1, 2007

**BILL SUMMARY:** Changes the Department of Transportation outdoor advertising selective vegetation removal policy to authorize a five hundred foot removal zone, as recommended by the Joint Legislative Transportation Oversight Committee. (Identical to H 49)

- Amends GS 136-18.7 to increase the fee for a selective vegetation removal permit issued pursuant to GS 136-18(5), (7), and (9) from \$200 to \$300. Makes the fee nonrefundable.
- Amends GS 136-93 by adding new subsection (b) to provide for fines in addition to any penalty imposed by the court ranging from \$2,000 to a maximum of \$30,000 for trimming or removing a tree in violation of the statute.
- Amends GS 136-129 (limitations of outdoor advertising devices) to provide guidelines regarding spacing of legally erected advertising structures, fees for those structures, designation by the Department of Transportation (DOT) of a portion of the fees for restoration funds, and limitations on fees or charges for restoration or compensatory replacement of vegetation.
- Modifies proposed new GS 136-133.1 (outdoor advertising selective vegetation removal) to provide guidelines as to vegetation permitted to be removed from the maximum removal area determined by applying metes and bounds described in GS 136-133.1. Also modifies the distances used to determine the maximum removal area. Additionally provides guidelines governing the removal of vegetation and violations that may result in the temporary or permanent revocation of an advertising permit. Directs that the issuance of permits to remove vegetation are available at the sole discretion of DOT only for locations that have been permitted for at least two years and provides that a party who loses an appeal of an outdoor advertising permit revocation has to forfeit all revenue generated by the outdoor advertising from the date of the revocation to the date of the court decision or settlement to DOT.
- Changes the title of the bill.

*Source: Bill Digest S.B. 150v2*

**ASSUMPTIONS AND METHODOLOGY:**

*Department of Transportation*

1. There are approximately 400 permits issued annually for vegetation removal. There is a fee increase of \$100 for each permit.

2. There is a \$30 increase for initially registering the outside advertising structure. There are approximately 150 new structures annually.
3. There is a \$30 increase for the annual renewal of the outside advertising structure. There are approximately 8,200 signs currently.
4. There are currently restoration fees for legal and illegal cutting activities that NCDOT has in place, which will be prohibited by this bill. Currently \$850,000 annually is assessed for the illegal cutting; however, NCDOT only collects a small percentage of that assessment (that amount is about \$20,000 annually or 2.3%). DOT collects about \$40,000 annually from companies and individuals for legal tree cutting; those fees would be prohibited under this act and a new fee imposed.
5. There is a new “restoration fee” in this act for the illegal cutting which assesses damages at \$2,000/tree with a cap of \$30,000. Based on historical information, with the cap the assessed damages will be about \$640,000 and with the increased penalties for violations, it is estimated that a greater percentage of the fees will be collected. It is estimated that approximately 15% of the assessed value of the fees will now be collected.

## **CRIMINAL OFFENSE**

The addition of proposed G.S. 136-133.1, which delineates the maximum area and parameters for vegetation removal with regard to outdoor advertising, expands the offense of violation of G.S. 136-93. Current G.S. 136-93 provides that “...no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed, and no obstruction placed thereon, without a written permit... an then only in accordance with the regulations of said Department of Transportation...” Violation is a Class 1 misdemeanor offense. Proposed G.S. 136-93(b) would also subject violators to fines of \$2,000 to \$30,000.

According to the Department of Transportation, approximately sixty (60) trimming/removal violations occur annually; however, it is not known how many additional violations might result from the proposed area restrictions. Consequently, Fiscal Research cannot estimate the potential frequency of violation, resultant charges and/or convictions, or fine proceeds. Nevertheless, *given the nature of the offense and existing penalty level, Fiscal Research does not anticipate a significant impact (additional costs) for Corrections and the Courts.*

### **Department of Correction: Division of Prisons**

Because Class 1 misdemeanants serve their designated terms of incarceration within local jails, resultant active sentences should not impact the State prison population.<sup>1</sup> The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Accordingly, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

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<sup>1</sup> Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

## **Department of Correction: Division of Community Corrections**

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if additional convictions and non-active sentences result, the Division of Community Corrections (DCC) could incur some additional supervisory costs.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

## **Judicial Branch**

There is no readily available data from which to determine the number of additional charges that might occur for violation of G.S. 136-93. However, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and workloads for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated cost per Class 1 misdemeanor trial is \$3,702; the estimated cost per plea is \$243. Actual costs may vary from this general estimate, which includes indigent defense costs.

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

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** July 23, 2007



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