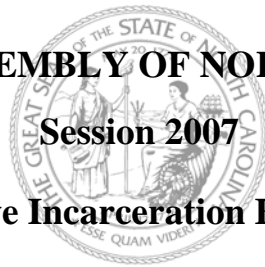


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1263 (Second Edition)

SHORT TITLE: Election Law Amendments.

SPONSOR(S): Senator Nesbitt

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<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>
GENERAL FUND					
Correction	No significant impact anticipated. Exact amount cannot be determined.				
Judicial	No significant impact anticipated. Exact amount cannot be determined.				
TOTAL EXPENDITURES:	Amount cannot be determined.				
ADDITIONAL PRISON BEDS: (cumulative)*	None anticipated. Jail impact is indeterminate.				
POSITIONS: (cumulative)	None.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch; Local Government.				
EFFECTIVE DATE:	Sections 4.(a) and 4.(b) become effective December 1, 2007. Otherwise, act is effective 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: S.B. 1263 makes the following changes to affected statutes:

Section 1: Current G.S. 163-59 provides that any person who will become qualified by age or residence to register and vote in the general or regular municipal election for which a primary is held, even though not qualified by the primary date, is entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. S.B. 1263 deletes the words "or residence" from that provision, thereby making age the only qualifying event.

Section 2: Current G.S. 163-226.3(a)(4) makes it a Class I felony for any person, in connection with absentee voting, other than the voter's near relative or legal guardian, to make a written request

pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in the state or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot. S.B. 1263 *excepts* from that provision certain members, employees, or volunteers of the county board of elections.

Section 3: Amends G.S. 163-33.1, pertaining to the power of the chair of the county board of elections to administer oaths.

Section 4.(a): Effective December 1, 2007, amends G.S. 163-165.1(e) to *make an unlawful disclosure of voted ballots a Class 2 misdemeanor offense*.

* No effective date is provided for any of the changes, other than the amendment to G.S. 163-165.1(e).

The second edition of S.B. 1263 makes the following changes to the first:

- Makes the changes to G.S. 163-59 and G.S. 163-226.3(a)(4) effective January 1, 2008.
- Effective December 1, 2007, amends G.S. 163-274 to make a conforming change, including the new offense of violation of G.S. 163-165.1(e) (concerning the confidentiality of ballots) among the list of Class 2 misdemeanor offenses under G.S. 163-274 (Certain acts declared misdemeanors).
- Enacts new G.S. 128-7.2 providing that to be eligible for appointment to fill a vacancy in a state or local elective office, the person must have been qualified to vote for that office if an election were held on the date of appointment.
- Makes a conforming change to G.S. 163-11 concerning vacancies in the Senate or House of Representatives. Makes a conforming title change; reorganizes bill.

Source: Adapted from Bill Digest S.B. 1263 (03/21/0200)

ASSUMPTIONS AND METHODOLOGY:

General

S.B. 1263 creates a new Class 2 misdemeanor offense (G.S. 163-165.1(e), concerning the confidentiality of ballots) for any person with access to an official voted ballot or record to knowingly disclose how an individual has voted on that ballot. Because this is a *new* offense, there is no historical data from which to estimate its impact.

Based on current resource levels, Fiscal Research expects that any new charge and/or conviction will generate some additional cost to the Courts and Corrections. However, *the nature of the offense and proposed penalty level (Class 2 misdemeanor) suggest minimal fiscal impact.*

Department of Correction

Class 2 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state's prison population.¹ The potential impact on local jail populations is unknown.

In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. However, per Structured Sentencing, Class 2 misdemeanor active sentences may range from 1 to 60 days (depending on one's prior record level). Thus, to the extent

¹ 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.

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. But given the typical length for Class 2 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction: Division of Community Corrections

In FY 2005-06, 83% of Class 2 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. Accordingly, *if future convictions for the proposed offense occur, the Division of Community Corrections (DCC) could assume some additional costs for offenders placed under its supervision.* 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.
- 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

Because the proposed offense is new, there is no data from which to estimate the number of charges that might occur. Nevertheless, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates increased workload for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated court-time costs per Class 2 misdemeanor trial and plea are \$2,770 and \$230, respectively. These cost estimates account for indigent defense. Actual costs may vary with time requirements and disposition.

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

TECHNICAL CONSIDERATIONS: None

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