

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 657

SHORT TITLE: Office of Administrative Hearings Mediation Program

SPONSOR(S): Representatives Nesbitt, Baddour, Hackney (co-sponsors)
Bowman, and Fitch

FISCAL IMPACT:

Expenditures:	Increase ()	Decrease (X)
Revenues:	Increase ()	Decrease ()
No Impact ()		
No Estimate Available ()		

FUND AFFECTED: **General Fund (X)** **Highway Fund ()** **Local Fund (X)**

BILL SUMMARY: Adds new GS150B-23.1 to allow administrative law judge to order mediated settlement conference for all or part of contested case to which judge is assigned. All aspects of conference must be conducted in so far as possible in accordance with rules adopted by NC Supreme Court for court-ordered mediation pilot program under GS 7A-38. Parties have right to stipulate to mediator; if they fail to agree within time set by judge, judge must appoint mediator. Judge may impose sanction under GS 150B-33(b)(8) or (10) if party or party's attorney fails to attend conference. Costs of conference to be paid one share by petitioner, one share by respondent, and equal share by any intervenor, unless otherwise apportioned by judge. Provides that all conduct or communications made during conference are presumed to be made in compromise negotiations and are governed by Rule 408 of NC Rules of Evidence. Mediation program to be evaluated under direction of Attorney General, who must file written report on evaluation of program on or before May 1, 1995 with Speaker, President pro Tem., and Legislative Services Comm'n. Applicable to contested cases pending on or begun after Oct. 1, 1993; act expires June 30, 1995.

Introduced by Nesbitt.

AMENDMENTS/COMMITTEE SUBSTITUTES-May 4, 1993-DailyBulletin 57

H 657. OAH HEARINGS MEDIATION PROGRAM. Intro. 3/29. House committee substitute authorizes chief administrative law judge (was, any administrative law judge) to require parties to participate in prehearing settlement conference conducted by a mediator in any contested case assigned to an administrative law judge. Makes other technical changes consistent with revision.

EFFECTIVE DATE: October 1, 1993 and expires June 30, 1995.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Office of Administrative Hearings (OAH)

FISCAL IMPACT

	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
	1993-94	1994-95			

EXPENDITURES

TOTAL EXPENDITURES	(\$89,457)	(\$107,353)	(Act expires June 30, 1995)
STATE FUNDS	(\$86,124)	(\$103,353)	(See Sec.3)
LOCAL FUNDS	(\$3,333)	(\$4,000)	

ASSUMPTIONS AND METHODOLOGY: There are several assumptions that have been used to estimate the impact of this bill which are as follows: 1) Approximately 250 cases that come before the OAH would be recommended for mediation, 2) The standard mediation fee is \$400.00 and would be shared equally between the petitioner and the respondent (the State), 3) Approximately 25 percent of the cases recommended for mediation would be settled prior to mediation, 4) An average of 40 man-hours are required to prepare and hear an un-mediated case, 5) The average salary of an attorney hearing a case is \$47,000/yr. and the average cost of other needed state personnel would be \$12.00/hr., 6) Approximately twenty cases annually involve special education or related matters and would not impact the General Fund, 7) There would be no significant administrative cost associated with this program to the Office of Administrative Hearings since a list of approved mediators already exist and petitions and respondents can be referred to a mediator from that list, and 8) The following estimate should be viewed as minimal savings, actual savings are very likely to be higher.

No estimate is being made to include the salaries cost of state employees who may be called in as witnesses in cases. Since the range of salaries varies so greatly and since the cost is a function of salary and time away from work no estimate is offered in this analysis. With these assumptions in mind the following computations are made.

Cases:	250	Cases annually eligible for mediation
	- 63	(250 - (.25 x 250))settled prior to
mediation		
	<hr/> 187	
	- 20	Handled at the local level
	<hr/> 167	Cases to be settled through mediation
Costs/Case	\$722.88	\$47,000 / 2,080 hrs/yr = \$22.59 x 32 hrs
(Current Law)	\$ 96.00	\$12.00/hr x 8 hrs
	<hr/> \$818.88	Man-hour costs per case
Work-hour	\$136,753	167 cases x \$818.88
Costs		
Mediation Costs	\$33,400	167 cases x \$200

Cost Savings \$103,353
in Man-hours

SOURCES OF DATA: Office of Administrative Hearings and the Office of Attorney General.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION
733-4910

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DATE: May 7, 1993

[FRD#002]

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