

FISCAL NOTE TRANSMITTAL FORM

[[2nd CORRECTED EDITION]] The e-mail edition you received, dated 4/3/95 still contained uncorrected addition; this 2nd edition corrects the addition in estimated recurring expense. PLEASE DELETE THE "CORRECTED" edition issued on 4/3/95 and replace it with this "2nd CORRECTED EDITION" dated 4/4/95. I apologize for any confusion this may cause. TomC
 BILL NUMBER: HB 192 (PCS9067)

SHORT TITLE: Legislative Approval of Rules

SPONSOR(S): Rep. David Redwine

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

[[2nd CORRECTED EDITION]]

BILL NUMBER: HB 192 (PCS9067)

SHORT TITLE: Legislative Approval of Rules

SPONSOR(S): Rep. David Redwine

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

FUNDS AFFECTED:	General Fund (X)	Highway Fund ()
	Local Fund ()	Other Fund ()

BILL SUMMARY: An act to create the Joint Legislative Procedure Oversight Committee, and to provide that no administrative rule shall become effective until approved by the General Assembly, and to strengthen the authority of the Rules Review Commission to determine the necessity of a proposed rule.

EFFECTIVE DATE: The act becomes effective Oct. 1, 1995, and shall apply to all rules for which a notice of rule making is published in the N.C. Register on or after that date, and to all rules that do not require publication of a notice of rule making and are adopted on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: General Assembly; Office of Administrative Hearings; Rules Review Commission

FISCAL IMPACT

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u>
99-00					
EXPENDITURES					RECURRING
<u>General Assembly</u>					
Sal. & Ben.	\$300,000	\$300,000	\$300,000	\$300,000	
\$300,000		Other Opr Costs	50,000	51,500	53,045
54,636	56,275		Committee Costs		
		Subsistence	9,984	10,283	15,888
16,855			Mileage	7,200	10,909
11,458	7,867	12,155			7,416
<u>Admin. Hearings</u>					
Sal. & Ben.	46,044	46,044	46,044	46,044	
46,044					
<u>Rules Review Com.</u>					
Supplies	300	309	318	327	
337	Total Recurring	\$413,528	\$415,552	\$426,753	
\$419,783	\$431,666				

NON-RECURRING

<u>General Assembly</u>					
Furn. & Equip	\$5,000				
Comp. & Software	16,500				
Reserve	50,000				
<u>Admin. Hearings</u>					
Furn. & Equip	2,000				
Comp. & Software	6,600				
Total Non-recur	\$80,100	-0-	-0-	-0-	
-0-					

REVENUES/RECEIPTS

RECURRING

NON-RECURRING

POSITIONS:

General Assembly	5	5	5	5
5				
Admin. Hearings	2	2	2	2
2				

ASSUMPTIONS AND METHODOLOGY:

I. GENERAL ASSEMBLY

As described in the bill, a new Joint Legislative Administrative Procedure Oversight Committee would be created to have liberally construed powers to provide for the maximum oversight of all rule-making activity in the state. Because of the comprehensive oversight responsibilities, and the uncertainty of workload on

both Committee members and General Assembly staff, it is difficult to estimate the fiscal impact on General Assembly expenditures. For purposes of this fiscal note however, it was assumed that the Committee would be staffed similarly to the Rules Review Commission plus two fiscal analysts, and that a reserve would be established to address unexpected Committee needs. More details regarding those assumptions are listed below.

1. **Staff.** It is assumed that a staff of 5 people will be hired to assist the Committee. The Staff would consist of:

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Principal Rules Rev. Spec	\$70,000	\$17,500	\$87,500
Rules Review Spec	50,000	12,500	62,500
Senior Fiscal Analyst	55,000	13,750	68,750
Fiscal Analyst I	35,000	8,750	43,750
Admin. Assistant	30,000	7,500	37,500
	<u>\$240,000</u>	<u>\$60,000</u>	<u>\$300,000</u>

Fiscal Analysts will be required to coordinate provisions of GS 150B-21.4 which requires fiscal notes on certain rules.

2. **Committee workload estimate.** It is assumed that the Committee will meet monthly and will consider 200 rules a month. During FY 93/94 2,412 proposed rules or rule changes, averaging 1.25 pages per rule, were published in the N.C. Register. Current activity for FY 94/95 is similar to that of FY 93/94. Thus if current rules activity continues, the committee would review about 250 pages of rules at each meeting, each month.

3. **Mileage and subsistence.** Committee members will receive subsistence and mileage reimbursement for meetings held when the General Assembly is not in session.

4. **Other recurring cost estimates.** Other operational costs, in addition to salaries, subsistence, and travel reimbursement, are estimated to be \$50,000 annually. This would include such items as telephone expense, data processing charges, printing and copying, equipment, repairs and maintenance, contractual services, etc.

5. **Non-recurring cost estimates.** Non-recurring charges consist of \$5,000 for staff furniture and equipment, plus \$16,500 for purchase of computers for the three staff members. Additionally, because of the uncertainty of the workload on the Committee and staff, and because of the possible need to contract for expert testimony, a \$50,000 reserve has been included. It is suggested that the reserve be appropriated for the Committee's use for temporary employees and consulting assistance, expert testimony, etc.

II. OFFICE OF ADMINISTRATIVE HEARINGS

Since HB 192 requires legislative approval for a permanent rule, it is assumed that agencies will enact temporary rules until review by the General Assembly. Agencies are required to submit temporary rules to the Office of Administrative Hearings (OAH) to be reviewed for compliance with GS 150B-21.1 (temporary rules adoption procedure). If approved, the rules are entered into the N.C. Administrative Code. If OAH disapproves an agency temporary rule, the agency can still impose the rule and submit it to OAH for inclusion into the Code. OAH estimates that 1500 additional temporary rules will be filed due to enactment of HB 192. Operating costs for OAH will be increased by this additional workload. The details of those costs are listed below.

1. **Staff.** It is estimated that two additional administrative clerks will be employed at an annual cost of \$23,022 each, including benefits.

2. **Non-recurring cost estimates.** Non-recurring costs of \$8,600 will be incurred. This consists of office furniture and equipment at \$2,000, and data processing equipment and software at \$6,600.

III. RULES REVIEW COMMISSION Expanding the standards by which the Commission reviews rules to consider the "cumulative effect" (e.g. duplicative rules) does not present a significant change in Commission procedures. However there may be a slight increase in the time required to complete the review of each rule, and lengthier reports and additional mailings. In the short term the fiscal impact may result in slightly increased stationary and postage costs. The estimate is \$300 to \$600 annually. The long range effects could result in extended monthly meetings from half to full day, which result in increased cost for Commission members whose travel requires a 3-4 hour drive. No estimate is provided at this time.

IV. For fiscal years after FY 95/96, an annual inflation rate of 3% is allowed for all expenses other than salaries and benefits.

SOURCES OF DATA: Rules Review Commission; Office of Administrative Hearings; GS 150B The Administrative Procedure Act

TECHNICAL CONSIDERATIONS:

1. GS 150B-21.1 lists six criteria for which a temporary rule may be adopted. All six are specific and address issues that are of an emergency nature or react to court or legislative direction. HB 192 requires legislative approval before a rule becomes permanent. This will require agencies to rely heavily on temporary rules for regulatory activities until the General Assembly reacts to a proposed permanent rule. There might possibly be a conflict in the intended use of temporary rules and the impact of HB 192.

2. Approximately 2,400 rules, or amendments to rules, are proposed annually (about 3,000 pages). HB 192 does not provide guidance as to whether or not rules (or sets of rules) or all rules will be disposed of as: (a) individual bills, (b) multiple departmental bills, or (c) a single omnibus bill of about 3,000 pages. Selecting one of these options might possibly affect demands upon the General Assembly staff of the Bill Drafting Division and General Research Division, or the Fiscal Research Division if fiscal notes are required.

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Tony Goldman

APPROVED BY: Tom Covington **TomC**

DATE: April 4, 1995

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UPDATED VERSION - JUNE 22, 1995

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 192 CSRL-004(1.2)

SHORT TITLE: RRC CHANGES/ LEG. OVERSIGHT

SPONSOR(S): Rep. David Redwine

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease (**
)

Revenues: **Increase ()** **Decrease (**
)

No Impact ()

No Estimate Available ()

FUNDS AFFECTED: **General Fund (X)** **Highway Fund ()**

Local Fund () **Other Fund ()**

BILL SUMMARY: An act to create the Joint Legislative Procedure Oversight Committee, to strengthen the authority of the Rules Review Commission, and to make proposed administrative rules effective at the end of the legislative session.

EFFECTIVE DATE: The act becomes effective Oct. 1, 1995, and applies to all rules for which a notice of rule making is published in the North Carolina Register on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: General Assembly; Office of Administrative Hearings; Rules Review Commission

FISCAL IMPACT

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u>
99-00					
EXPENDITURES					RECURRING
<u>General Assembly</u>					
Sal. & Ben.	\$37,500	\$37,500	\$37,500	\$37,500	
\$37,500		Other Opr Costs	10,000	10,300	
10,609	10,927	11,255		Committee Costs	
Subsistence	9,984	10,283	15,888	10,909	
16,855		Mileage	7,200	7,416	
11,458	7,867	12,155			
<u>Admin. Hearings</u>					
Sal. & Ben.	46,044	46,044	46,044	46,044	
46,044					
<u>Rules Review Com.</u>					
Supplies	300	309	318	327	
337	Total Recurring	\$111,028	\$111,852	\$121,817	
\$113,574	\$124,146				

NON-RECURRING

<u>General Assembly</u>					
Furn. & Equip	\$1,000				
Comp. & Software	3,300				
<u>Admin. Hearings</u>					
Furn. & Equip	2,000				
Comp. & Software	6,600				
Total Non-recur	\$12,900	-0-	-0-	-0-	
-0-					

REVENUES/RECEIPTS

RECURRING

NON-RECURRING

POSITIONS:

General Assembly	1	1	1	1
1				
Admin. Hearings	2	2	2	2
2				

ASSUMPTIONS AND METHODOLOGY:

I. GENERAL ASSEMBLY

As described in the bill, a new Joint Legislative Administrative Procedure Oversight Committee would be created and have oversight responsibilities of administrative rule making. Although it is assumed that professional staff will be assigned to the Committee from current General Assembly employees, because of the anticipated day-to-day administrative requirements associated with the Committee powers and duties, it is assumed that a full-time administrative assistant will be hired. Details of staffing costs, as well as Committee operating expenses, are highlighted below.

1. **Staff.** It is assumed that an administrative assistant will be hired to assist the Committee.

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Admin. Assistant	\$30,000	\$7,500	\$37,500

2. **Committee workload estimate.** It is assumed that the Committee will meet monthly.

3. **Mileage and subsistence.** Committee members will receive subsistence and mileage reimbursement for meetings held when the General Assembly is not in session.

4. **Other recurring cost estimates.** Other operational costs, in addition to salaries, subsistence, and travel reimbursement, are estimated to be \$10,000 annually. This would include such items as telephone expense, data processing charges, printing and copying, equipment, repairs and maintenance, contractual services, etc.

5. **Non-recurring cost estimates.** Non-recurring charges consist of \$1,000 for staff furniture and equipment, plus \$3,300 for purchase of a computer for the administrative assistant.

II. OFFICE OF ADMINISTRATIVE HEARINGS

HB 192 indicates that a permanent rule does not become effective until the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approved the rule. Because of this delay, it is assumed that agencies will enact temporary rules until the permanent rules become effective. Agencies are required to submit temporary rules to the Office of Administrative Hearings (OAH) to be reviewed for compliance with GS 150B-21.1 (temporary rules adoption procedure). If approved, the rules are entered into the N.C. Administrative Code. If OAH disapproves an agency temporary rule, the agency can still impose the rule and submit it to OAH for inclusion into the Code. OAH estimates that 1500 additional temporary rules will be filed due to enactment of HB 192.

Operating costs for OAH will be increased by this additional workload. The details of those costs are listed below.

1. **Staff.** It is estimated that two additional administrative clerks will be employed at an annual cost of \$23,022 each, including benefits.

2. **Non-recurring cost estimates.** Non-recurring costs of \$8,600 will be incurred. This consists of office furniture and equipment at \$2,000, and data processing equipment and software at \$6,600.

III. RULES REVIEW COMMISSIONExpanding the standards by which the Commission reviews rules to consider the "cumulative effect" (e.g. duplicative rules) does not present a significant change in Commission procedures. However there may be a slight increase in the time required to complete the review of each rule, and lengthier reports and additional mailings. In the short term the fiscal impact may result in slightly increased stationary and postage costs. The estimate is \$300 to \$600 annually. The long range effects could result in extended monthly meetings from half to full day, which result in increased cost for Commission members whose travel requires a 3-4 hour drive. No estimate is provided at this time.

IV. For fiscal years after FY 95/96, an annual inflation rate of 3% is allowed for all expenses other than salaries and benefits.

SOURCES OF DATA: Rules Review Commission; Office of Administrative Hearings; GS 150B The Administrative Procedure Act

TECHNICAL CONSIDERATIONS:

1. GS 150B-21.1 lists six criteria for which a temporary rule may be adopted. All six are specific and address issues that are of an emergency nature or react to court or legislative direction. HB 192 states that a permanent rule approved by the Rules Review Commission does not become effective until adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule. This delay will require agencies to rely more on temporary rules for regulatory activities. There might possibly be a conflict in the intended use of temporary rules and the impact of HB 192.

FISCAL RESEARCH DIVISION

733-4910

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Michele Nelson

APPROVED BY: Tom Covington **TomC**

DATE: April 20, 1995

Official

Fiscal Research Division
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