

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 132

SHORT TITLE: Clerks/Year's Allowance

SPONSOR(S): Senators Odom and Rand

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

REVENUES No Reliable Estimate Available

EXPENDITURES No Fiscal Impact

POSITIONS: None.

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** Judicial Branch.

EFFECTIVE DATE: October 1, 1997, and applies to applications for year's allowances filed on or after that date.

BILL SUMMARY:

CLERKS/YEAR'S ALLOWANCE. TO AUTHORIZE CLERKS TO ALLOCATE SPOUSE'S AND CHILDREN'S YEAR'S ALLOWANCE FROM A DECEDENT'S ESTATE. Amends GS 30-16, 30-17, and Part 2 of Article 3 of GS Ch. 30 to provide that the functions assigned to magistrates in allocating the year's allowance to surviving spouses and children, valuing property for purposes of the allowance, and hearing appeals related to the allowance may be carried out by clerks of court or by magistrates. Amends GS 7A-307(b1) to allow clerk to charge fee for hearing a petition for year's allowance in cases not assigned to a magistrate.¹

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 11.

ASSUMPTIONS AND METHODOLOGY:

The Judicial Branch does not record information on the frequency with which applications are made to magistrates for allocation of a year's allowance for a spouse or child(ren). Without this information, the Judicial Branch cannot determine the amount of revenue generated from a new \$4.00 fee.

The bill would authorize clerks to make the allocation of the estate allowances themselves, rather than having to assign the application to a magistrate. However, pursuant to G.S. 30-20, as amended, whether to refer the matter to a magistrate or to decide the matter oneself would be in the discretion of the clerk. Therefore, under this bill, clerks will have control over the degree to which this bill adds to their workload. Further, the Administrative Office of the Court's discussion with clerks indicated that performing this responsibility is generally not a complicated or time-consuming task and that, in some instances, clerks are already performing this task and then obtaining a magistrate's signature. Lastly, the task of allocating allowances from estates is already being performed - this bill does not create new work it just allows work to be performed by either the magistrate or the clerk. These factors indicate that there should be no fiscal impact on expenditures.

TECHNICAL CONSIDERATIONS:

Section titles shown on Page 1, Line 6 (for G.S. 30-16) and Page 3, Line 7 (for G.S. 30-21) should be reviewed to determine whether these titles should be amended to include Clerk of Court (i.e., G.S. 30-16 – "Duty of personal representative, magistrate, or Clerk of Court to assign allowance" and G.S. 30-21 – "Report of magistrate or Clerk of Court".)

FISCAL RESEARCH DIVISION

733-4910

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DATE: March 13, 1997



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