

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: House Bill 1854 (House Finance Committee Substitute)

SHORT TITLE: 2000 Fee Bill

SPONSOR(S):

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	(\$million)				
	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>
REVENUES					
Utilities Special Fund	\$11.6	(\$2.9 million increase over FY 1999-00)			
(Regulatory Fee Revenue = \$11.4)					
(NC EMC Fee = \$0.2)					
Insurance Regulatory Fund	\$25.65	(\$3.95 million increase over 1999)			
General Fund					
Emergency Planning	\$.07	\$.07	\$.07	\$.07	\$.07
Court of Justice Fees	<u>6.11</u>	<u>6.35</u>	<u>6.35</u>	<u>6.35</u>	<u>6.35</u>
TOTAL	\$6.18	\$6.42	\$6.42	\$6.42	\$6.42
Court Information					
Technology Fund					
- Convenience Fee	\$2.20	\$2.29	\$2.29	\$2.29	\$ 2.29
Local Governments					
-Jail Fees		estimate unavailable—upper bound is \$5.04 million/year			

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Utilities Commission, Department of Insurance, Administrative Office of the Courts

EFFECTIVE DATE: Sections 1 (public utility regulatory fee), 2 (NC Electric Membership Corporation fee), and 6 (nuclear facility emergency planning fee) are effective July 1, 2000. Section 5 (jail fees for local governments) is effective July 1, 2000 and applies to sentences or portions of sentences being served on or after that date. Sections 4 (increase court costs) and 7 (convenience fee for court records) are effective July 15, 2000. The remainder of the bill is effective when it becomes law.

BILL SUMMARY: Section 1 of the bill sets the utilities regulatory fee at 0.12% for FY 2000-01. Section 2 sets the FY 2000-01 EMC Regulatory Fee at \$200,000. Section 3 sets the insurance regulatory charge effective for calendar year 2000 at 7.0%. Section 4 increases all categories of General Court of Justice Fees. Section 5 increases the jail fees paid by probationers from \$5/ day to the amount counties are reimbursed for misdemeanants held in local jails. Section 6 increases the fee charged nuclear facilities from \$18,000 to \$36,000. Section 7 sets a fee for remote access to court records at 25 cents per transaction (current charge is 10 cents).

ASSUMPTIONS AND METHODOLOGY:

Public Utility Regulatory Fee

Section 1 of the bill sets the of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999. **(This is an increase from the current 0.09% rate set for fiscal year 1999-2000.)** The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

G.S. 62-302(b)(2) states that the percentage rate established by the General Assembly and assessed by the Commission "may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund." The Utilities Commission estimates that combined operations of the Commission and the Public Staff in FY 2000-2001 will require expenditures of not less than \$11,498,329. Revenues generated by the proposed utilities regulatory fee are estimated to be \$11,400,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account. The balance in the reserve account as of June 30, 2000 is projected to be \$5,352,736.

The Utilities Commission indicates that the status of the Accumulated Fee Margin Reserve Account is as follows:

Balance as of 6/30/2000	\$ 5,352,736
Add: Estimated Collections and Interest for FY 2000-2001 using 0.12%	<u>\$12,065,000</u>
Total Funds Available	\$17,417,736
Less: Estimated FY 2000-2001 Expenditures Reimbursable from Fees	\$(11,498,329)*
Estimated Margin Reserve for Period Ending 6/30/2001	\$ 5,919,407

** The Utilities Commission indicates that the fee increase was necessary in order to stabilize the amount in the Reserve from further decrease due to anticipated and unanticipated expenses of the Commission. Anticipated costs include salary increases and additional personnel. Unanticipated expenses include the Legislative Study Commission on the Future of Electric Service in North Carolina, Y2K computer compliance upgrades, and building facilities assessment.*

North Carolina Electric Membership Corporation (EMC) Regulatory Fee:

G.S. 62-302(b1) states that the fee proposed by the Utilities Commission to regulate electric membership corporations “may not exceed the amount necessary to defray the estimated costs of the operations of the Commission and the Public Staff for the regulation of the electric membership corporations in the upcoming fiscal year”.

The General Assembly set the FY 1999-2000 EMC Regulatory Fee at \$200,000. Based upon the expenses incurred the first year this fee was implemented, the Utilities Commission believes that the \$200,000 in section 2 of the bill is a reasonable amount to cover anticipated expenses in FY 2000-2001.

Insurance Regulatory Charge

Section 3 of the bill sets the insurance regulatory charge effective for calendar year 2000 at 7.0%. (This is the same as the rate for the previous year.) The charge is a percentage of a company’s premiums tax liability for the taxable year for every insurance company subject to the premiums tax levied under G.S. 105-228.5. For companies that do not pay premiums tax, namely HMOs and Article 65 companies (Blue Cross Blue Shield HMO and Delta Dental), the charge is a percentage of the company’s presumed premiums tax. The presumed premiums tax is what a company’s premiums tax would be if they were liable for the tax.

G.S. 58-6-25(b) states that the percentage rate, set annually, cannot exceed the rate necessary to generate funds sufficient to defray the estimated cost of operating the Department of Insurance for the upcoming year including a reasonable margin for a reserve fund. The reserve fund should not exceed one-third of the estimated operating cost. The revenue collected from the charge is deposited into the Insurance Regulatory Fund invested with the State Treasurer and managed by the Office of State Budget and Management. Funds generated by the regulatory charge are used to reimburse the General Fund for the amount appropriated to the Department of Insurance.

The actual premium tax collections for 1999-2000 is estimated to be \$289.5 million. The premiums tax collections for 2000-2001 is estimated to be \$303.98 million. This includes a 5% growth increase over the 1999-2000 collections.

The HMOs and the Article 65 companies do not pay a premiums tax. However, effective January 1, 2000, these companies must pay a regulatory charge based on their calendar year 2000 premiums. Their surcharge will be based on their presumed premiums tax. The presumed premium tax for the HMOs and Article 65 companies is estimated to be \$62.50 million.

With the premiums tax collections of \$303.98 million and the presumed premiums tax of \$62.5 million from the HMOs and Article 65 companies, the total base against which the insurance regulatory charge will be assessed is estimated to be \$366.48 million. Applying the 7.0% regulatory fee to the \$366.48 million bases would generate \$25.65 million in regulatory fee revenue.

The Department estimates that the operating expenses will be \$22.9 million for 2000-2001 and that the reserve will have a balance of \$6.37 million at the beginning of 2000-2001. The total available from the reserve fund (\$6.37 million) and the estimated collections of \$25.65 million will be \$32.02 million. The total available less the estimated operating expenditures of \$22.9

million will leave a year-end reserve balance of \$9.1 million. This reserve is above one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 7.0%, assessed against companies that pay a premiums tax as well as HMOs and Article 65 companies, is sufficient to defray the estimated cost of the operations of the Department including a reasonable reserve fund.

Increase Court Costs

Section 4 of the bill increases all the categories of fees classified as “General Court of Justice”. Current fees and the proposed increase are detailed below:

CATEGORY	CURRENT COJ FEE	PROPOSED INCREASE	NEW COJ FEE	NEW TOTAL FEE
District Ct—Criminal	\$61	\$4	\$65	\$90
District Ct-Civil	\$40	\$4	\$44	\$65
Superior Ct—Criminal	\$68	\$4	\$72	\$115
Superior Ct-Civil	\$55	\$4	\$59	\$80
Magistrate—Civil	\$28	\$5	\$33	\$50
Special Proceedings— Nonforeclosures	\$26	\$4	\$30	\$45
Foreclosures	\$30	\$10	\$40	\$55
Estates (fixed portion of fee)	\$26	\$4	\$30	\$40
Minimum Charge for Other filings	\$10	\$ 5	\$15	\$25
Trust under Will	\$15	\$ 5	\$20	\$30
Probate	\$17	\$ 3	\$20	\$30

Court Costs include General Court of Justice Fees, Facilities Fees, Service Fees and a contribution to Law Enforcement Officer Retirement Benefits. Court Costs were last increased in 1998 when the facilities fee, a portion of court costs that is returned to counties or municipalities to defray the costs of providing court facilities, were increased \$6. The last increases in General Court of Justice fees were a \$15 increase in 1997 and a \$5 increase in 1996 for Criminal Courts. Civil fees were last increased in 1992 when they were raised by \$4.

Based on collections by categories in 1998-99, the Administrative Office of the Courts projects these fee increases will generate an additional \$6,353,961 in Court of Justice Fee receipts. Total receipts in 1998-99 were \$94,301,168 with 64% of these receipts from District-Criminal, 12.2% from Estates, 8.5% from Magistrates and 4.8% from District Court-Civil. The amount of increase by category is listed below:

Superior Court –Criminal	\$ 69,616
Superior Court—Civil	\$ 91,908
District—Criminal	\$3,981,328
District—Civil	\$ 450,432
Magistrates	\$1,391,555

Estates	\$ 223,456
Special Proceedings	\$ 145,666

This estimate may be conservative because (1) foreclosures can not be separated out from other special proceedings so the estimate is based on \$5 increase in this category rather than the actual \$10 increase; and (2) collections on estates are lumped together so the estimate is based on the \$4 increase in the basic fee only. Because the fee increases will be effective July 15th, 2000, the first year yields are reduced by 3.8%.

Jail Fees for Local Governments

Section 5 of HB 1854 increases the fees charged to probationers held in local jails. Currently, the maximum fee for probationers or for other offenders held prior to trial is \$5 per day. HB 1854 would instead tie the amount to the amount paid by the Department of Correction for 30-90 day misdemeanants held in local jails. This amount is currently \$18 but subject to change in each year’s budget. It was last changed in 1998.

These funds are collected by the AOC but returned to local governments (99.9% to counties) . In 1998-99, \$1,939,224 was collected, suggesting billing for about 387,845 days of jail. At \$18/day, this would increase to \$6,981,206. Unfortunately, AOC can not determine what portion of these funds came from probationers. **If all the fees came from probationers (highly unlikely), the increase from \$5 to \$18 would generate an additional \$5,041,982 for local governments. This is an upper bound—no better estimate is available at this time.**

Increase Fee for Emergency Planning

The fee for emergency planning is doubled from \$18,000 to \$36,000 per year in section 6 of the bill. The Division of Radiation Protection in the Department of Environment and Natural Resources uses the funds paid by the state’s four nuclear facilities to provide off-site radiological emergency response to the facilities. The current fee generates \$72,000 per year and pays for half of the program costs. The fee increase will boost revenues to \$144,000 in FY 2000-01 and pay for 100% of program cost.

Convenience Fee for Court Records

GS 7A-109(d) allows the Administrative Office of the Courts to charge reasonable cost recovery for contracts allowing third parties to provide remote access to court records. They currently charge a set-up fee and 10 cents/transaction. The first 18 contracts were implemented in December and they have billed over \$636,000 to date. Section 7 sets a fee of 25 cents per transaction and clarifies there is also a set-up charge (currently \$750) based on actual costs.

It is difficult to project future collections because this is a new activity with only a short history. The AOC believes remote access will still be profitable for the current vendors, even at the 25 cent rate. However, there could be reduced activity in the future due to the higher costs and other factors. Average billings in 2000 have been \$127,236/month. **Based on this history, the fee of 25 cents should yield \$3.817 million per year, an increase of \$2.29 million over collections at the current charge.** The onetime set-up charge is not expected to yield significant revenue. First year costs are lower because of the effective date.

These funds are distributed to the Court Information Technology Fund (7A-343.2) that was created in 1999. The Administrative Office of the Courts (AOC) can use these funds for information technology needs. Under current law, the AOC reports each March 1 on collections the prior year and their proposed expenditure of the funds. The AOC reported in March 2000 to Governmental Operations and have used the 1999-2000 proceeds to establish 5 receipt-supported positions in their Court Information and Information Services Division.

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Marilyn Chism , Jennifer Willis, Elisa Wolper & Richard Bostic

APPROVED BY: James D. Johnson

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