

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** House Bill 1854 (Senate 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>
<b>REVENUES</b>					
Utilities Special Fund	\$9.26				
(Regulatory Fee Revenue = \$9.06)					
(NC EMC Fee = \$0.2)					
Insurance Regulatory Fund	\$25.65				
General Fund					
Emergency Planning	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07
Court of Justice Fees	<u>6.11</u>	<u>6.35</u>	<u>6.35</u>	<u>6.35</u>	<u>6.35</u>
<b>TOTAL</b>	<b>\$6.18</b>	<b>\$6.42</b>	<b>\$6.42</b>	<b>\$6.42</b>	<b>\$6.42</b>
Highway Fund	\$0.38	\$0.55	\$0.61	\$0.67	\$0.74
Local Governments					
-Jail Fees		estimate unavailable—upper bound is \$5.04 million/year			
-White Goods Tax	\$0	\$3.01	\$3.18	\$3.37	\$3.56
Solid Waste Management					
Trust Fund	\$0	\$0.33	\$0.35	\$0.37	\$0.40
White Goods Management					
Account	\$0	\$0.84	\$0.88	\$0.94	\$0.99

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Utilities Commission, Department of Insurance, Administrative Office of the Courts, County Governments, Department of Transportation – Division of Motor Vehicles

**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. Section 4 (increase court costs) is effective on July 15, 2000. Section 7 (DMV fees) is effective on October 1, 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 0.09% 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 (currently \$18/day). Section 6 increases the fee charged nuclear facilities from \$18,000 to \$36,000. Section 7 increases oversize load permits and penalties. Section 8 authorizes state agencies to charge a fee for Internet transactions. Section 9 repeals the July 1, 2001 sunset on the white goods tax.

**ASSUMPTIONS AND METHODOLOGY:**

**Public Utility Regulatory Fee**

Section 1 of the bill sets the utilities regulatory fee at 0.09% of each public utility’s North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999. **(This is the same rate as 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 \$11,980,319. Revenues generated by the proposed utilities regulatory fee are estimated to be \$9,059,000. The \$2.92 million difference between fee revenue and the proposed budget will be funded by other revenues generated by Commission fees and charges (\$655,000) and by withdrawals from the Accumulated Fee Margin Reserve Account (\$2.3 million). The balance in the reserve account as of June 30, 2000 is projected to be \$6,764,481.

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

Balance as of 6/30/2000	\$ 6,764,481
Add: Estimated Collections and Interest for FY 2000-2001 using 0.09%	<u>\$ 9,724,000</u>
Total Funds Available	\$16,488,461
Less: Estimated FY 2000-2001 Expenditures Reimbursable from Fees	\$(11,980,319)
Estimated Margin Reserve for Period	

Ending 6/30/2001

\$ 4,508,162 \*

*\* The Utilities Commission requested to increase the regulatory fee from .09% in FY 1999-00 to .12% for FY 2000-01 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 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 15<sup>th</sup>, 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.

### **Oversize Load Permits and Penalties**

Part VII, section 7 (f) of this bill authorizes the Department of Transportation (DOT) to increase the fee for a single trip oversize/overweight permit from \$10 to \$12. There were approximately 19,500 individual oversize/overweight permits issued in calendar year 1999. According to the DOT, single trip permit issuance has increased by 10% a year since 1989, and will increase to approximately 19,700 permits in fiscal year 2000-01. If the \$2 fee increase was imposed for 12 months in FY 2000-01, an additional \$39,400 would be deposited into the Highway Fund.

However, the October 1 effective date for the fee increase will reduce FY 2000-01 new Highway Fund revenue to \$29,550. Future year issuance of permits is projected to grow 10% per year

Under current law, annual permits are issued according to the following schedule:

<b>No. of Vehicles</b>	<b>Annual Permit Rate per Vehicle</b>
1-50	\$50
51-100	\$40
101-150	\$30
151 and over	\$20

This legislation replaces the fee schedule for annual permits with a \$200 annual permit fee for moving house trailers and a \$100 annual permit fee for moving other commodities. This fee does not apply to farm equipment or to material transported by State and Federal agencies. While there is no available estimate on the number of miscellaneous commodity permits that will be issued, the DOT estimates that it will issue approximately 3,100 annual permits for house trailers in FY 2000-01. For estimate purposes, this fiscal note assumes that all current annual permits are issued at the \$50 rate for 1-50 vehicles. Therefore, upon passage of this bill, the Highway Fund will earn an additional \$150 for each house trailer moved. Adjusting for an October 1 effective date, at least \$348,750 [(3,100 x .75)x (\$200-\$50)] in additional revenue will be deposited into the Highway Fund in FY 2000-01 from annual permit fees. Issuance of these permits is also expected to increase by 10% a year over the next five years. The chart below shows the total impact on the Highway Fund from the fee increases.

	<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>
Single trip permits	19,700	21,670	23,837	26,221	28,843
\$2 fee increase *	\$29,550	\$43,340	\$47,674	\$52,441	\$57,686
Annual permits	3,100	3,410	3,751	4,126	4,539
\$150 fee increase *	\$348,750	\$511,500	\$562,650	\$618,900	\$680,850
Total Highway Fund	\$378,300	\$554,840	\$610,324	\$671,341	\$738,536

\* FY 2000-01 adjusted for October 1, 2000 effective date

Section 7 (f) also includes a nonrefundable fee of \$100 for superload permits that require an engineering study for pavement, structures, or other special considerations. Additionally, a fee of \$3 per 100 lbs. is charged for any permit issued over 132,000 lbs. The annual and superload fees are to be commensurate with the costs of administering the program, and shall be periodically adjusted to assure that revenues generated equal the cost to the Oversize/Overweight Permit Unit Program within the Division of Highways. Every two years, the DOT shall provide the Joint Legislative Transportation Oversight Committee with cost and revenue reports for this purpose. Submission of the first report is required by December 1, 2002. As the fee schedule for these annual permits is established according to the cost of providing the permit service, revenues collected upon the passing of the bill will equal the expenditures by the DOT. This will effectively balance the current deficit that exists between revenues collected and the costs of

issuing the permits. Similarly, the fees assessed for engineering and excess weight would merely pay for the costs of services associated with these superload permits, and would result in no additional revenue gains or losses. There is no available estimate on revenues that will be collected from superload fees and engineering deposits.

Part VII, section 7 (a) of this bill authorizes the DOT to assess a separate civil penalty against the registered owner of the vehicle as follows:

- 1) A fine of \$500 for any of the following: operating without a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, or failing to comply with dimension or escort vehicle regulations.
- 2) A fine of \$250 for moving loads beyond the distance allowances of the previously mentioned annual house trailer permit.
- 3) A fine of \$100 for any other violation of permit conditions or requirements imposed by applicable regulations.

It also authorizes the DOT to suspend and/or refuse issuance of permits for repeated violations.

According to Division of Motor Vehicle Enforcement, approximately 175 court citations for oversize/overweight permit violations are written each year. Under current law, a civil penalty of up to \$500 may be assessed for oversize/overweight permit violations, yet the vast majority of those who are cited for these violations are only assessed \$86 in court costs. This bill will decriminalize some violations, making them subject to civil penalties administered by the Department of Transportation. Therefore, the bill has the potential to reduce some court workload as well as the collection of some court fees. However, other amendments in the bill enhance certain violations from Class 3 misdemeanors under current law, to Class 2 misdemeanors, and increase the point values under G.S. 20-16 (c), which apply toward revocation of a license. The Administrative Office of the Courts has no data from which to reliably estimate the net impact of this bill on the courts, but they do not expect a substantial fiscal impact. There would be no impact on prisons as a result of this bill.

### **Internet Transactions**

The language in section 8 is permissive for state agencies, thus no estimate is available for this proposed fee. Each department will set its own fee based on the costs of completing a transaction on the Internet or other means of electronic access.

### **White Goods Sunset Repeal**

Until July 1, 2001, there is a \$3 point of origin tax imposed on retailers of white goods in addition to state sales tax. White goods as defined in G.S. 130A-290 (a) are residential and commercial appliances including refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, clothes dryers, dishwashers, and other similar large appliances. The tax is allocated 8% to the Solid Waste Management Trust Fund (SWMTF), 72% to the counties, and 20% to the White Goods Management Account (WGMA).

The most current estimate of the balance of the White Goods Management Account is approximately \$5,062,000. The balance of the Solid Waste Management Trust Fund is approximately \$1,601,786, of which \$1,300,000 has been already been allocated for this years contracts and grants.

Upon the sunset of the current legislation, the white goods disposal tax would be lifted, and the White Goods Management Account closed on July 1 of the following year. As the current legislation does not expire until July 1, 2001, upon the passing of the bill there would be no fiscal impact during FY 2000-01. It would, however, result in tax revenues for subsequent years. Revenues from the White Goods Disposal Tax were \$1,023,300 for the first quarter of 2000. Of this \$1.02 million, approximately \$987,500 was available for distribution after collection and administration costs. Assuming similar patterns in the collection of this tax for subsequent quarters, the yearly distribution of these revenues is as follows:

**Current Distribution of White Goods Tax Proceeds**

Solid Waste Management Trust Fund (8%)	\$ 315,992
White Goods Management Account (20%)	\$ 789,984
Available for Distribution to Counties (72%)	\$2,843,948
<b>Total</b>	<b>\$3,949,924</b>

The annual growth in appliance sales is estimated at 5.8% nationally, and is a growth trend that is generally applicable to North Carolina appliance sales. Therefore, the White Goods Disposal Tax revenue will increase at the same yearly rate.

**Future Distribution of White Goods Tax Proceeds**

	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>
SWMTF	\$ 315,992	\$ 334,320	\$ 353,710	\$ 374,225	\$ 395,930
WGMA	\$ 789,984	\$ 835,803	\$ 884,280	\$ 935,568	\$ 989,831
Counties	\$2,843,948	\$3,008,897	\$3,183,413	\$3,368,051	\$3,563,398
<b>Total</b>	<b>\$3,949,924</b>	<b>\$4,179,020</b>	<b>\$4,421,403</b>	<b>\$4,677,844</b>	<b>\$4,949,159</b>

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