

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1151

SHORT TITLE: More Arrests/Service for Litterers

SPONSOR(S): Representative Justus

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

FUND AFFECTED: General Fund () Highway Fund () Local Fund ()
 Other Fund ()

BILL SUMMARY: Adds new G.S. 14-398.1 reiterating state's policy against littering. Revises G.S. 14-399 to provide that anyone who violates litter laws shall remove all litter for a two-mile section of a primary or secondary road polluted by litter. Provides further that convicted litterer shall be required to wear vest identifying person as convicted litterer while picking up litter.

EFFECTIVE DATE: Upon ratification; applicable to all offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department; Department of Crime Control and Public Safety - Community Service Program; Department of Transportation.

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions.

ASSUMPTIONS AND METHODOLOGY: It is estimated that this bill would not have a substantial fiscal impact on the Judicial Department or the Community Service Program. While HB 1151 states that "law enforcement officers give the arrest of litters a high priority," a telephone interview of sheriffs conducted by a representative of the North Carolina Sheriffs' Association indicated that a significant increase in the number of arrests for littering would not be expected upon ratification of this bill. This conclusion was substantiated by a representative of the North Carolina Highway Patrol who stated that it is already the policy of the department to

strictly enforce anti-littering laws. The Highway Patrol estimates few additional littering arrests. Based on the above responses, it is assumed that there would be few additional littering offenses to be prosecuted as a result of this bill.

Based on this assumption, the Administrative Office of the Courts (AOC) provides the following analysis of a second aspect of the proposed bill which emphasizes that district attorneys shall "aggressively prosecute cases involving littering."

"As to the existing caseload, the bill adds new section G.S. 14-398.1, which states as state policy that district attorneys should aggressively prosecute cases involving littering. Assuming that under the facts of some cases it were possible to more aggressively prosecute defendants, it does not appear that there would be significant fiscal impact. First, relatively few cases are affected. Statewide in calendar 1992, there were approximately 75 felony charges and 9 felony convictions under G.S. 14-399; there were approximately 2,661 misdemeanor charges and 1,786 misdemeanor convictions. Second, these cases do not tend to be complex or costly.

Littering is a misdemeanor so long as the litter does not exceed 500 pounds, is not discarded for a commercial purpose, and is not hazardous waste. The misdemeanor violations are punishable by fines (no more than \$500 for first offenders if the litter did not exceed 15 pounds, and no more than \$1,000 for other misdemeanor offenses). It is likely that the vast majority of the misdemeanor cases will not involve fines in excess of \$500; in such cases, an indigent person has no right to court-appointed counsel [G.S. 7A-451(1)]. Cases involving a fine of \$500 or more probably very rarely involve an indigent defendant. In addition, magistrates have jurisdiction to accept waivers of trial and guilty pleas in the less serious misdemeanor cases. Thus, the misdemeanor littering cases are of relatively low cost to dispose of, and more aggressive prosecution of such cases, even if possible, would not be expected to result in substantial fiscal impact.

The existing littering felony caseload is relatively small in size, and also probably rarely would involve indigent defense costs (since commercial litterers and many other high-volume litterers are probably not indigent). While arguably more aggressive prosecution could lead to trials rather than pleas in some cases, the number of cases affected would probably be very small and spread statewide, probably not involving substantial fiscal impact.

The AOC emphasizes that the "major question under this bill is whether changes in law enforcement practices would result in the filing of many new cases. District Attorneys are already struggling with large caseloads, and to aggressively prosecute a large number of additional littering cases, without sacrificing attention to more serious cases, would require additional resources."

A third aspect of the proposed bill amends current sentencing provisions by requiring that the convicted defendant perform litter

removal on a two mile stretch of road under a community service program. While performing the community service, the offender must wear a safety vest supplied by the community service program which identifies its wearer as a convicted litterer. Based on information collected in telephone interviews with a representative of the Community Service Program, the Director of the Highway Beautification Project, and the Chief Engineer of Operations within the Division of Highways, it is not anticipated that the amended sentencing provisions would result in a significant fiscal impact.

Currently, the Community Service Program coordinates efforts for litter removal with the Department of Transportation (DOT). To date in the current fiscal year, the DOT has used 1,462 community services workers to perform 23,720 hours of litter removal services. Some of these workers are already convicted litterers sentenced to perform community service. However, even if they were not, program representatives for both DOT and Community Service note that absorbing the estimated 1,795 convicted litterers would not result in a substantial fiscal impact. The DOT states that additional costs for safety vests (\$0.43 per vest) and trash bags (\$0.81 per bag) could be absorbed within existing resources. The Department currently supervises an estimated 140,000 litter removal volunteers and service workers. Each is currently provided with a vest and bags. Vests for the littering offenders could be labeled and then used over for new offenders at very minimal cost.

SOURCES OF DATA: Judicial Department - Administrative Office of the Courts; Department of Crime Control and Public Safety - Community Service Program; Department of Transportation - Division of Highways and Highway Beautification Project

TECHNICAL CONSIDERATIONS: None

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