

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 906, Proposed House Committee Substitute PCS 4787

SHORT TITLE: Workers' Comp. Reform

SPONSOR(S): Senator George Daniel

FISCAL IMPACT: Expenditures: Increase ( ) Decrease ( )
Revenues: Increase ( ) Decrease ( )
No Impact (X) Department of Correction
No Estimate Available (X) Judicial Department

NOTE: Fiscal Note applies only to new criminal penalties in Sections 7.1, 7.2, and 8.1.

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

BILL SUMMARY:

The proposed House Committee Substitute for SB 906 creates three new misdemeanor criminal offenses for Workers' Compensation fraud. These are: (1) Section 7.1 of the bill adds G.S. 97-88.2(a) which states that a person "... who willfully makes a false statement or representation of a material fact for the purpose of obtaining or denying or assisting another to obtain or deny any benefit or payment..." would be guilty of a Class 1 misdemeanor; (2) Section 7.2 also adds 97-88.3(c) which states that "...a health care provider who knowingly charges or otherwise holds an employee financially responsible for the cost of any services..." based on fraudulent acts listed within the legislation would be guilty of a Class 1 misdemeanor; and (3) Section 8.1 of the bill amends G.S. 97-94 to state that (d) "any person who, with the ability and authority to bring an employer in compliance with G.S. 97-93, wilfully and intentionally refuses or neglects to bring the employer in compliance..." would be guilty of a Class 1 misdemeanor.

EFFECTIVE DATE: Varies by Section. Relevant sections effective October 1, 1994

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department and Department of Correction

FISCAL IMPACT

Table with 5 columns: FY 1994-95, FY 1995-96, FY 1996-97, FY 1997-98, FY 1998-99

EXPENDITURES RECURRING: Corrections - No Fiscal Impact

**NON-RECURRING**

Judicial Department - No Fiscal Estimate

Available

**REVENUES/RECEIPTS**

**RECURRING**

**NON-RECURRING**

**POSITIONS:** None

**ASSUMPTIONS AND METHODOLOGY:**

**Judicial Department**

The Judicial Department could be impacted by the new offenses outlined in the "Bill Summary" depending on the volume of additional cases. However, note that there are no current criminal laws that specifically pertain to Workers' Compensation. Cases involving misrepresentation must be pursued within the fraud statutes. The Administrative Office of the Courts reports that data relevant to the number of current fraud cases involving Workers' Compensation is unavailable because there is no means of identifying workers' compensation fraud cases from other fraud cases within the data network.

In addition to not knowing how many cases are currently pursued in court, there is no data available to project fraud caseload. A survey conducted by Carl Goodwin, the Worker's Comp. Manager with the N. C. Office of State Personnel in 1993 suggests that there are a number of workers' compensation cases within State Government that involve some level of misrepresentation but are not presently investigated nor pursued through the courts. However, use of this survey to project caseloads is limited by several factors: the survey applies only to state government; the survey's response was limited (several major State agencies such as Correction, did not respond); workers' compensation fraud was not defined for State agency respondents; and, the majority of respondents were technicians with part-time responsibility for claims processing.

Previous attempts in 1993 to obtain data necessary to project the number of potential State and non-State investigations, criminal filings, and convictions were not successful. [Note that representatives of the N. C. Industrial Commission, N. C. Department of Insurance, N. C. Office of State Personnel, National Health Care Anti-Fraud Association, Health Insurance Association of America, Health care Finance Administration, American Insurance Association; and various state Workman's Compensation Commissions confirmed that relevant data is unavailable.]

While more cases would likely be investigated and result in additional criminal charges under the proposed legislation, no substantive information exists for determining the number of future cases. While it is likely that the number of cases will not significantly increase judicial workload, in the absence of necessary data on fraud cases no fiscal estimate is available for the Judicial Department.

**Department of Correction** (DOC)

While obtaining relevant data is also a concern when projecting the fiscal impact of these cases on DOC, there is adequate information to project fiscal impact. The staff of the Sentencing and Policy Advisory Commission notes that under the Structured Sentencing Act these offenses are misdemeanors and that offenders are not likely to have a prior record. Thus, a prison sentence is unlikely. The staff also notes that in 1992 only 13% (20) of all felony fraud cases (157) resulted in a prison sentence. The current number of misdemeanor workers compensation fraud cases in 1992, which are now prosecuted under general fraud statutes, is not available within the data system but is likely to be very small. Therefore, it is reasonable to project a very small number of offenders would receive prison sentences or be added to probation caseloads under the new penalties. Further, Department of Correction has adequate funding and prison bed capacity for small increases in population. Therefore, it is assumed that there would be no fiscal impact for the Department of Correction.

**SOURCES OF DATA:** Administrative Office of the Courts, Department of Correction, and Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

733-4910

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**DATE:** June 22, 1994

JM:ap



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