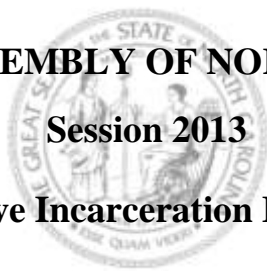


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2013

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 76 (Sixth Edition)

SHORT TITLE: Domestic Energy Jobs Act.

SPONSOR(S):

FISCAL IMPACT					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Administrative Office of the Courts, Indigent Defense Services, and the Department of Public Safety					
EFFECTIVE DATE December 1, 2013					
TECHNICAL CONSIDERATIONS:					
None					

This incarceration note only addresses the fiscal impact of the criminal penalty included in Section 4 of the PCS. Creation of this new criminal penalty is expected to have a minimal fiscal impact.

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address a new chargeable offense being enforced, adjudicated and having penalties applied to those convicted of the new offense. However, given there is no historical data on this new offense, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

- Administrative Office of the Courts: \$165 per disposition
- Indigent Defense Services: \$166 in district court
\$321 in superior court without a trial

\$847 in superior court with a trial

- Community Corrections: Minimum of \$1,634

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Section 4 of the PCS for S.B. 76, Domestic Energy Jobs Act, creates a new Class 1 misdemeanor offense for failing to register in compliance with the registration requirements set out in the existing subsection (b) of G.S. 113-425, or to fraudulently or deceptively obtain, or attempt to obtain a registration, use or attempt to use an expired, suspended, or revoked registration, falsely represent oneself as a registered landman, or engage in any other fraud, deception, misrepresentation, or knowing omission of material facts related to oil or gas interests, as set out in the existing subsection (c).

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

Since the bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this section on the prison population. It is not known how many offenders might be convicted and sentenced under the new statute.

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 4 of the PCS for S.B. 76 creates a new Class 1 misdemeanor offense for failing to register in compliance with the registration requirements set out in the existing subsection (b) of G.S. 113-425. G.S. 113-425 is in Article 27 of Chapter 113 of the General Statutes. G.S. 113-380, Violation a misdemeanor, currently makes it a Class 1 misdemeanor for any person, firm or officer of a corporation to violate any provision of Article 27, Oil and Gas Conservation, of Chapter 113 of the General Statutes. The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of

G.S. 113-380. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions.

Because this is a new criminal penalty, AOC does not have data upon which to estimate the number of charges that may arise from this bill. For every one person charged with this crime, the estimated cost to AOC will be \$165, the average cost per disposition for Class 1 misdemeanor offenses.

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS estimates that the cost of a new Class 1 misdemeanor will result in an increase of \$166 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost of a PAC attorney per case would be \$321 if the case does not go to trial and \$847 if it does.

Department of Public Safety –Prison Section

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed bill. In FY 2011-12, 26% of Class 1 misdemeanor convictions resulted in active sentences. The average sentence imposed for Class 1 convictions was 39 days. Structured Sentencing misdemeanants who receive an active sentence of 180 days or less are housed in either the Statewide Misdemeanant Confinement Program (91-180 days) or in county jails (90 days or less). Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on the Statewide Misdemeanant Confinement Program and local jail populations is not known.

Department of Public Safety – Community Correction Section

All types of post-release supervision, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service.¹ General post-release supervision and supervision of intermediate and community offenders by a probation officer costs \$3.63 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to active sentences requiring post-release supervision, intermediate sanctions and supervised probations.

In FY 2011-12, 26% of Class 1 misdemeanor offenders received active sentences; 2% received intermediate sentences; and 72% received community punishments. Only felony offenses result in post-release supervision (PRS), therefore there is no additional cost for a misdemeanant sentenced to an active sentence. The average length of intermediate and community punishment imposed for this offense class was 18 and 15 months, respectively. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives an intermediated sentence is \$1,960 (540 days times \$3.63 per day). Of those convicted to a community sentence, around 40% received supervised sentences. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$1,634 (450 days times \$3.63 per day).²

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

¹ CCS incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

² Due to the effective date of December 1, 2013 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2012-13. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2013-14.

TECHNICAL CONSIDERATIONS: None

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