

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 57 (Second Edition)

**SHORT TITLE:** Withholding for Nonresidents

**SPONSOR(S):** Rep. Neely

**FISCAL IMPACT**

**Yes (X)      No ( )      No Estimate Available ( )**

**FY 1997-98   FY 1998-99   FY 1999-00   FY 2000-01   FY 2001-02**

**REVENUES**

**General Fund**

\$8 million to \$10 million annual gain

**PRINCIPAL DEPARTMENT(S) &  
PROGRAM(S) AFFECTED:**

Department of Revenue  
Secretary of State

**EFFECTIVE DATE:** Section 1 is effective upon ratification; the remainder becomes effective January 1, 1998.

**BILL SUMMARY:** The proposed bill requires North Carolinians to withhold 4% of the payment owed nonresidents for services rendered in the state when such payments exceed \$600. The person withholding funds must register with the Department of Revenue as a withholding agent. If the nonresident is a corporation or a Limited Liability Company (LLC) and it registers with the Secretary of State it will not be subject to withholding. Current law already requires withholding from nonresident professional team athletes. With the adoption of an administrative rule in November 1995, the Department requires professional athletic teams to determine the portion of an athlete's income subject to North Carolina tax and withhold 7.75% of the athlete's North Carolina source income.

**ASSUMPTIONS AND METHODOLOGY:** The Department of Revenue requests this legislation to increase the collection of income taxes owed by nonresident companies and individuals. The revenue impact is estimated to be between \$8 to \$10 million each year, but the exact dollar amount is unknown due to the lack of data on revenue earned by nonresidents working in the state. The proposed bill would increase General Fund revenues from increased withholding, from increased collections from registered firms now complying with state tax law (Revenue will be better able to track these firms), and from corporate registration fees with the

Secretary of State (\$200 for each foreign corporation). Some industries are examined below to gauge the potential revenue gain from nonresident withholding.

## **GENERAL CONTRACTORS**

In 1995, the North Carolina Licensing Board for General Contractors had 1,765 out of state companies licensed to work in the state. These firms sought licensing to work on projects greater than \$30,000 on buildings, highways, public utilities, grading, and improvement of structures. The majority of these firms are from southeastern states such as South Carolina (426), Georgia (205), Virginia (174), Tennessee (155), and Florida (152). However, the Licensing Board stated that other contractors work in the state without a license because of the contract size (< \$30,000) or because they are doing federal jobs.

From 1993 to 1996, 48 out-of-state firms, representing both design and construction, did business with the State Construction Office. The Department of Revenue was asked to check on whether these firms filed income tax returns in North Carolina. Of the 48 firms, only 58.3% or 28 filed returns. If firms working directly for the state are filing only 58.3% of the time, one may assume those contractors working for private customers file at lower rates or not at all.

If it is assumed that each licensed nonresident contractor earned \$100,000 in North Carolina in 1995, what would the state have earned from the proposed withholding law? Assuming these 1,765 firms paid no income tax to the state that year, the 4% withholding on the \$100,000 contract payments would have yielded \$7.06 million in 1995.

## **PROFESSIONAL GOLF**

Passage of this bill would require professional golf tournaments to withhold payment from nonresident golfers. By scanning residence information from the various golf associations, it appeared many of the golfers lived in Florida (no income tax), California and Texas (no income tax). If this requirement were in effect in 1996, the state would have earned \$243,764 from nonresidents in the following tournaments:

<b><u>Tour</u></b>	<b><u>Tournament</u></b>	<b><u>Nonresident Winnings</u></b>
PGA	Greater Greensboro Classic	\$1,800,000
LPGA	Fieldcrest Cannon Classic*	449,142
LPGA	U.S. Women's Open*	1,180,336
Senior PGA	Paine Webber Invitational	800,000
Senior PGA	Vantage Championship	1,500,000
Nike Tour	Carolina Classic	196,935
Hooters Tour	Charlotte*	94,631

Hooters Tour	Fayetteville*	<u>73,058</u>
		\$6,094,102

\*Known N. C. residents were deducted from winnings.

## NASCAR

Most of the NASCAR race winnings in North Carolina are already being taxed because 32 racing teams are based in the state. Withholding 4% of the prize money earned by nonresident Winston Cup racers in 1996 (shown below) would have earned the state \$57,910.

Winston Cup	GM Goodwrench 400	\$287,780
Winston Cup	Tyson/Holly Farms 400	178,190
Winston Cup	First Union 400	194,580
Winston Cup	Coca Cola 600	286,030
Winston Cup	UAW/GM Teamwork 500	274,085
Winston Cup	AC-Delco 400	<u>227,075</u>
		\$1,447,740

Information was not available for all Busch and Craftsman racing teams, but known state resident winnings were subtracted from the race purses below. These races in 1996 would have yielded a maximum withholding of \$47,561.

Busch Grand Natl.	Red Dog 300	188,495
Busch Grand Natl	All Pro Bumper to Bumper 300	276,245
Busch Grand Natl	AC-Delco 200	191,610
Busch Grand Natl	Sun Drop 400	125,335
Busch Grand Natl	Goodwrench 200	228,205
Craftsman Truck	Lowe's 250	<u>179,140</u>
		\$1,189,030

The total expected withholding from NASCAR events in 1996 would have been \$105,471.

## CONCERTS

Revenue information for 1996 was obtained from two major venues and one major concert promoter. To estimate the withholding amount for concert acts, gross revenues must be reduced by the state gross receipts tax, local taxes, personnel expenses such as ticket sales and security, facility leases, and promotional expenses. One promoter estimated the entertainer's check would be about 60% of the gross revenues. Of course the artist must then pay his or her expenses to produce the show.

The following gross revenues are for 1996. Walnut Creek and Cellar Door are actual, but Blockbuster is an estimate.

Walnut Creek (Raleigh)	\$7,542,000	
Blockbuster (Charlotte)	5,028,000	
Cellar Door (NC concerts)	<u>1,639,000</u>	
	\$14,209,000	X 60% = \$8,525,400
	\$8,525,400	X 4% withholding = \$341,016

**OTHER**

- 1. Film Industry** - In 1995, the 54 feature films produced in North Carolina generated an estimated \$391 million in revenues in the state. According to Bill Arnold with the North Carolina Film Office in the Department of Commerce, these film revenues do not include payments made to producers, directors and the movie stars themselves. Tax withholding has significant revenue potential in this industry.
- 2. DOT Contracts** - In 1996, the Department of Transportation spent \$284.5 million with out of state firms. Many of these contracts were purchase orders for goods. The largest contracts were for highway construction. The Department of Revenue will be asked to look at the filing status of the top recipients of DOT funds.
- 3. Misc.** - North Carolina’s major fishing tournaments attracts anglers from across the nation due to their large cash prizes. Professional dance and theater groups perform in the many of the state’s cities throughout the year earning income that is taxable. There are many other examples.

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