

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: House Bill 959
SHORT TITLE: Receptacles Used to Solicit
SPONSOR(S): Representative McCombs

FISCAL IMPACT

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

(in millions)

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

GENERAL FUND

Correction

No Reliable Estimate Available

Recurring
Nonrecurring

Judicial

No Reliable Estimate Available

Recurring
Nonrecurring

Justice

No Reliable Estimate Available

Recurring
Nonrecurring

Human Resources

No Reliable Estimate Available

Recurring
Nonrecurring

TOTAL EXPENDITURES

POSITIONS: It is anticipated that approximately 0 positions would be needed to supervise the additional inmates housed under this bill. This is based on inmate to employee ratios, provided by the Division of Prisons, for close, medium, and minimum custody facilities (These position totals include security, program, and administrative personnel.).

Close – 2 to 1
Medium – 3 to 1
Minimum – 4 to 1

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch; Dept. of Human Resources; Dept. of Justice.

EFFECTIVE DATE: Effective January 1, 1997.

BILL SUMMARY:

RECEPTACLES USED TO SOLICIT. TO REQUIRE CHARITABLE ORGANIZATIONS THAT SOLICIT FUNDS BY OFFERING PRODUCTS FOR SALE IN RECEPTACLES TO PLACE A DISCLOSURE LABEL ON THE RECEPTACLES, TO ESTABLISH CERTAIN PROHIBITED ACTS WITH RESPECT TO THIS TYPE OF SOLICITATION, AND TO ESTABLISH APPROPRIATE PENALTIES FOR VIOLATIONS. Adds new GS Ch. 131G requiring any charitable organization that solicits contributions by offering product for sale for charitable purpose in public place, when product is in receptacle used by that organization, to place printed or typed notice on receptacle to inform public of name of organization, purpose for which contributions used, and name and address or telephone number of representative. On request, organization must disclose source from which a written financial statement may be obtained. This source must provide, with 14 days of request, written financial statement concerning purpose for which funds raised, total funds raised, and total allocated to stated purpose.

Makes it a class 1 misdemeanor, as well as an unfair trade practice under GS 75-1.1, to violate requirements of act, to knowingly provide false or misleading information on the notice on the receptacle or in response to any request or investigation by Dep't of Human Resources or Attorney General, to obtain contributions by misleading or defrauding the public, or to fail to provide complete and timely payment to a charitable organization of the proceeds from the sale of products used to solicit funds.

Authorizes Dep't of Human Resources to enforce act through subpoena to compel attendance of witnesses and production of relevant records. In event of substantial noncompliance with subpoena, DHR may petition superior court for order requiring subpoenaed person to appear and testify and produce specified records. If DHR finds violation, it may impose administrative penalty of up to \$1,000 for each violation and may issue order to cease specified fund-raising activities. Penalties are credited to General Fund. Also authorizes Attorney General to bring civil action in superior court to enforce provisions of act. Upon finding violation, court may impose civil penalty of up to \$10,000 per violation.

Exempts organizations that generate less than \$500 per calendar year from all sources for any charitable purposes. Provides that no organization is required to place disclosure label on any receptacle that generates less than \$100 gross per year. Effective Jan. 1, 1998.¹

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Judicial Branch notes there are some factors that suggest this bill **would not be likely to have a substantial fiscal impact on the court system**. This is because some of the activities this bill prohibits are already covered by other provisions of current law relating to fraud and false pretenses.

However, the Judicial Branch also notes there are a number of possibilities outlined in this bill that may have a substantial impact on the court system. The bill includes numerous new disclosures and other requirements, which do not exist under current law. Violations of any of these new disclosures and other requirements may lead to new civil or criminal cases. The Judicial Branch is unable to estimate the extent to which charitable organizations engage in the type of solicitations addressed in this bill. They are also unable to estimate the extent of enforcement activities that might be undertaken by the Department of Human Resources or the Attorney General. Although a reliable estimate cannot be determined by the Judicial Branch, they note that due to the numerous provisions in this bill, litigation may be relatively complex and time consuming.

Department of Correction

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Vol: 1997, No. 45.

Because this bill establishes a misdemeanor penalty, it is **not expected to have a significant fiscal impact** on the State prison system. However, since the Judicial Branch cannot reliably estimate how many offenders will be charged and convicted of this crime, the Sentencing and Policy Advisory Commission cannot reliably estimate the impact this bill may have on county jail populations.

Department of Justice

Based on the findings of the Judicial Branch, the Attorney General's Office **cannot reliably estimate** the impact this bill will have on their office. They expect there will be some fiscal impact, as there always is when enforcing a new law. It should be noted that the Department of Justice already has in place the Consumer Protection Division, which would be the division handling violations of this bill.

Department of Human Resources

The Department of Human Resources does account for all charitable organizations and the amount of funds they collect on a yearly basis. However, they have no means of determining how many charitable organizations actually solicit funds with receptacles. The Department of Human Resources assumes that some organizations may use receptacles in combination with their other fund raising activities. However, **a reliable estimate** of the number of these organizations that use this method to collect/solicit funds **cannot be determined** by the Department of Human Resources.

SOURCES OF DATA: Department of Correction, Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Justice; Department of Human Resources.

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION 733-4910 DATE: April 23, 1997

PREPARED BY: Andy Willis

APPROVED BY: Tom L. Covington



Signed Copy Located in the NCGA Principal Clerk's Offices