

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1139 (First Edition) **Revised**

SHORT TITLE: Appeals from Contempt

SPONSOR(S): Rep. Hackney

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
REVENUES					
EXPENDITURES	\$50,000 (NR)				
POSITIONS:					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Judicial Branch				
EFFECTIVE DATE:	Dec 1, 2001; applies to offenses committed on or after that date				

BILL SUMMARY: . Amends GS 5A-17 to specify that appeals of findings of criminal contempt by a district ct judge shall go to the Ct of Appeals and findings by a Clerk/Magistrate shall be heard de novo in Superior Ct

ASSUMPTIONS AND METHODOLOGY:

Under current law, findings of criminal contempt by a Superior Ct Judge can be appealed to the Court of Appeals but findings by District Ct Judges, Clerks or Magistrates go de novo to Superior Ct. This bill would have appeals of a decision in District Ct go to the Court of Appeals. Data was not readily available on the frequency of such appeals. However, this bill may result in a modest reduction in Superior Ct workload.

However, a record of the proceedings in District Ct would be needed for the appeal to the Court of Appeals. Generally, District Ct criminal proceedings are not recorded but recording systems are used in District Ct Civil cases. In some counties, there may not be an equipped courtroom available in which to record contempt proceedings. This could occur in

the smaller counties with less equipment or in larger counties where the civil courtroom is fully used.

In April, the Judicial Branch did a very quick survey of counties to identify those that would lack access to a courtroom with recording equipment for these kinds of cases. Of the 55 counties that initially responded (which represented a variety of sizes of county), 8 stated they would not have an available courtroom with recording equipment. If these 55 counties are representative, there would be 15 counties statewide in this situation. With an estimated cost per system of \$2,500, that resulted in an estimated fiscal impact of \$37,500 (=15*2500) as included in the original fiscal note.

Ultimately, 79 counties responded to the survey and 13 of these indicated they did not have the requisite equipment. If those 79 counties are representative, that suggests 17 counties need equipment. Because some counties indicated a need for more than 1 set of equipment (eg Guilford has courthouses in both Greensboro and High Point), the total need is greater than 17 and the total number of units requested by the clerks who responded was 38. However, it is not possible to identify an exact number without auditing each county's courtroom situation and contacting all the clerks who did not respond. Given this uncertainty, a reasonable estimate is 20.

The Judicial Branch estimates the cost of each system at \$2,500. The cost of purchasing 20 systems would be \$50,000 with potential additional wiring costs. AOC does not receive any funding for non-technology equipment and they would have to fund this purchase either by reallocating other non-personnel expenses or by using the technology fee fund proceeds.

TECHNICAL CONSIDERATIONS: HB 1085, Probation Revocation to Ct of Appeals, would also require recording equipment for some District Ct cases. Funding would be indicated for **either** HB 1139 or HB 1085, but not both.

FISCAL RESEARCH DIVISION 733-4910

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DATE: July 9, 2001



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