

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1281 (Third Edition)

SHORT TITLE: Certain Occupational Licensing Board Changes

SPONSOR(S): Senator Rand

| | FISCAL IMPACT | | | | |
|---|---|---------------------------------|----------------------------------|--------------------------|--------------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | <u>FY 2002-03</u> | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u> | <u>FY 2006-07</u> |
| REVENUES | | | | | |
| General Fund | | | | | |
| Judicial Branch | | See Assumptions and Methodology | | | |
| Dept. of Correction | | See Assumptions and Methodology | | | |
| Dept. of Insurance Fund | | See Assumptions and Methodology | | | |
| NC Real Estate Commission | | See Assumptions and Methodology | | | |
| EXPENDITURES | | | | | |
| NC Board of Landscape Architects | | | No Fiscal Impact | | |
| POSITIONS: | | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: | State occupational licensing boards; NC Real Estate Commission; NC Board of Landscape Architects; Department of Insurance; Department of Correction; Administrative Office of the Courts | | | | |
| EFFECTIVE DATE: | Sections 8 through 10 become effective January 1, 2003, and apply to any contracts entered into, any business conducted, and any actions taken on or after that date. The remainder of the act becomes effective October 1, 2002. | | | | |

BILL SUMMARY:

Sections 1 and 2 clarify the right of an occupational licensing board to defend potential liabilities of the board, its members, officers, employees, and agents. The occupational licensing boards are deemed State agencies and the affected individuals are deemed State employees for purposes of the revised statutes. The board can purchase commercial liability insurance coverage without waiving sovereign immunity or any other defense available currently.

Section 3 changes statutes related to the North Carolina Real Estate Commission (the Commission). The Commission may deal with real property in the same manner as a private entity subject to the approval of the Governor and Council of State; it may claim copyright on written

materials it creates and charge fees for publications and programs. **Section 4** changes the process for reinstatement of an expired license from the Commission. **Section 5** mandates if the Commission takes disciplinary action against any licensed person or entity, it may impose restrictions upon the involved parties' licenses.

Section 6 repeals the statute requiring the Attorney General to assign a staff attorney as an advisor to the North Carolina Board of Landscape Architects. **Section 7** authorizes the North Carolina Board of Landscape Architects to retain private counsel.

Sections 8 through 10 deal with the registration of Professional Employer Organizations (PEO) by the Department of Insurance.

ASSUMPTIONS AND METHODOLOGY:

The proposed legislation makes several technical changes to statutes. *This fiscal note will focus solely on those sections of the proposed legislation that have a financial impact.*

REVENUE

Section 4

The North Carolina Real Estate Commission (the Commission) currently issues licenses that are valid from July 1 until June 30. The renewal fee is \$35, with a \$5 late fee for licenses renewed prior to June 30 of the following year. The Commission estimates that approximately 5,000 of the 80,000 total licenses lapse each year. Of that 5,000 approximately 90% are eventually reinstated.

The proposed legislation changes the renewal fee for expired licenses and shortens the grace period in which a license can be reinstated. The total fee for reinstatement of an expired license will be \$55. The reinstatement must occur within six months of the expiration date, or the individual will be treated as a new applicant, with all applicable qualifications and fees required. Assuming the number of expired licenses remains the same, the Commission will realize an additional \$67,500 in fees (5,000 licenses x 90% x \$15 increase per license). However, the increased fee should result in more timely renewal requests and reduce the number of lapsed licenses annually.

Section 8

This section requires Professional Employer Organizations (PEO) to pay a \$500 nonrefundable registration fee to the Department of Insurance beginning in January 2003. The Department has no estimate of the number of PEOs that will seek registration.

EXPENDITURES

Section 6 and 7

The proposed legislation authorizes the North Carolina Board of Landscape Architects (the Board) to retain private legal counsel. Currently, the Board receives legal advice from staff in the Attorney General's office. The Board does not receive state funding or pay for counsel services, thus no funding changes are associated with this proposal.

Section 8

Judicial Branch: For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides the General Assembly's Fiscal Research Division with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time

will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 8 of the proposed legislation would create a new offense, punishable as a Class H felony. The AOC is unable to provide an estimate of the impact of this bill, but believes that the impact will not be significant. While the AOC was not able to obtain an estimate of the number of professional employer organizations currently in operation, they believe that the majority of such organizations would comply with the proposed licensing requirements found in this bill. Thus, the AOC does not project a significant number of Class H felony charges under section 58-89-30 in Section 8 of this bill.

Correction: The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The incarceration fiscal notes are based on December 2001 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and max outs) of the stock prison population sentenced under previous sentencing acts.

As with the AOC's analysis, the Sentencing Commission cannot project the number of convictions that would result from the new Class H felony in Section 8 of this legislation. Since the proposed section creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact on the prison population. It is not known how many offenders might be sentenced under this subsection. If, for example, there were three convictions for this offense per year, this would result in the need for one additional prison bed in the first year and two additional prison beds in the second year due to active sentences and post-release sentencing revocations. In FY 2002-03, each prison bed will cost, on average, \$69.27/day (\$25,282/year) to operate.

Insurance: The Department of Insurance will accept PEO registrations, but Department officials are not certain what costs will be incurred by the program. The registration fee is one-time, but the administrative costs of the program are ongoing.

SOURCES OF DATA: North Carolina Real Estate Commission; North Carolina Board of Landscape Architects; Sentencing and Policy Advisory Commission; Administrative Office of the Courts

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stephanie Schmitt, Chloe Gossage, and Richard Bostic

APPROVED BY: James D. Johnson

DATE: September 27, 2002



Signed Copy Located in the NCGA Principal Clerk's Offices