

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1269
Committee Substitute Favorable 5/5/09

Short Title: AOC Omnibus Courts Act.

(Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A COUNTY OR CITY TO USE EXCESS FACILITY FEES WITHOUT THE APPROVAL OF THE ADMINISTRATIVE OFFICE OF THE COURTS, TO ADD TO THE DIRECTOR'S POWERS AND DUTIES THE ESTABLISHMENT AND STAFFING OF AN INTERNAL AUDITING DIVISION FOR THE JUDICIAL DEPARTMENT, TO MODIFY CERTAIN STATUTES RELATED TO DRUG TREATMENT COURTS, AND TO CLARIFY THE EMERGENCY POWERS OF THE CHIEF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-304(a)(2) reads as rewritten:

"(2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality ~~may, with the approval of the Administrative Officer of the Courts as to the amount,~~ may use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county."

SECTION 2. G.S. 143-745(a) reads as rewritten:

"(a) For the purposes of this section:



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1 (1) "Agency head" means the Governor, a Council of State member, a cabinet
2 secretary, ~~the Chief Justice of the Supreme Court~~, the President of The
3 University of North Carolina, and the Superintendent of Public Instruction.

4 (2) "State agency" means each department created pursuant to Chapter 143A or
5 143B of the General Statutes, ~~the Judicial Branch~~, The University of North
6 Carolina, and the Department of Public Instruction."

7 **SECTION 3.** G.S. 7A-343 reads as rewritten:

8 **"§ 7A-343. Duties of Director.**

9 The Director is the Administrative Officer of the Courts, and the Director's duties include
10 all of the following:

11 (1) Collect and compile statistical data and other information on the judicial and
12 financial operation of the courts and on the operation of other offices directly
13 related to and serving the courts.

14 (2) Determine the state of the dockets and evaluate the practices and procedures
15 of the courts, and make recommendations concerning the number of judges,
16 district attorneys, and magistrates required for the efficient administration of
17 justice.

18 (3) Prescribe uniform administrative and business methods, systems, forms and
19 records to be used in the offices of the clerks of superior court.

20 (3a) Establish and staff as necessary an Internal Audit Division of the Judicial
21 Department and the Administrative Office of the Courts that:

22 a. Evaluates and discloses potential weaknesses in the effectiveness of
23 internal controls in the court system for the purpose of safeguarding
24 public funds and assets and minimizing incidences of fraud, waste,
25 and abuse.

26 b. Examines and analyzes the design and effectiveness of administrative
27 and procedural operations.

28 c. Ensures overall compliance with federal and State laws, internal and
29 external regulations, rules and procedures, and other applicable
30 requirements.

31 d. Inspects and reviews the effectiveness and efficiency of processes
32 and proceedings conducted by judicial officers.

33 e. Collaborates with other divisions to guide, direct, and support court
34 officials in efforts to conform to both recommended and required
35 compliance standards.

36 f. Executes routine audits of the Judicial Department's systems and
37 controls, including, but not limited to:

38 1. Accounting systems and controls.

39 2. Administrative systems and controls.

40 3. Electronic data processing systems and controls.

41 (4) Prepare and submit budget estimates of State appropriations necessary for
42 the maintenance and operation of the Judicial Department, and authorize
43 expenditures from funds appropriated for these purposes.

44 (5) Investigate, make recommendations concerning, and assist in the securing of
45 adequate physical accommodations for the General Court of Justice.

46 (6) Procure, distribute, exchange, transfer, and assign such equipment, books,
47 forms and supplies as are to be acquired with State funds for the General
48 Court of Justice.

49 (7) Make recommendations for the improvement of the operations of the
50 Judicial Department.

- 1 (8) Prepare and submit an annual report on the work of the Judicial Department
2 to the Chief Justice, and transmit a copy to each member of the General
3 Assembly.
- 4 (9) Assist the Chief Justice in performing his duties relating to the transfer of
5 district court judges for temporary or specialized duty.
- 6 (9a) Establish and operate systems and services that provide for electronic filing
7 in the court system and further provide electronic transaction processing and
8 access to court information systems pursuant to G.S. 7A-343.2.
- 9 (9b) Enter into contracts with one or more private vendors to provide for the
10 payment of fines, fees, and costs due to the court by credit, charge, or debit
11 cards; such contracts may provide for the assessment of a convenience or
12 transaction fee by the vendor to cover the costs of providing this service.
- 13 (9c) Prescribe policies and procedures for the appointment and payment of
14 foreign language interpreters in those cases specified in G.S. 7A-314(f).
15 These policies and procedures shall be applied uniformly throughout the
16 General Court of Justice. After consultation with the Joint Legislative
17 Commission on Governmental Operations, the Director may also convert
18 contractual foreign language interpreter positions to permanent State
19 positions when the Director determines that it is more cost-effective to do so.
- 20 (9d) Analyze the use of contractual positions in the Judicial Department and, after
21 consultation with the Joint Legislative Commission on Governmental
22 Operations, convert contractual positions to permanent State positions when
23 the Director determines it is in the best interests of the Judicial Department
24 to do so.
- 25 (10) Perform such additional duties and exercise such additional powers as may
26 be prescribed by statute or assigned by the Chief Justice."

27 **SECTION 4.** G.S. 7A-108 reads as rewritten:

28 **"§ 7A-108. Accounting for fees and other receipts; annual audit.**

29 ~~The Administrative Office of the Courts, subject to the approval of the State Auditor,~~
30 Courts shall establish procedures for the receipt, deposit, protection, investment, and
31 disbursement of all funds coming into the hands of the clerk of superior court. The fees to be
32 remitted to counties and municipalities shall be paid to them monthly by the clerk of superior
33 court.

34 The operations of the Administrative Office of the Courts and the Clerks of Superior Court
35 shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of
36 the General Statutes."

37 **SECTION 5.** Article 29 of Chapter 7A of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 7A-343.4. Internal audit standards; report and work papers.**

40 (a) Internal audits shall comply with current Standards for the Professional Practice of
41 Internal Auditing issued by the Institute for Internal Auditors and, when appropriate,
42 Government Auditing Standards issued by the Comptroller General of the United States.

43 (b) Except as otherwise provided in this section, the Internal Audit Division shall
44 maintain all audit reports, examinations, investigations, surveys, drafts, work papers, and all
45 other documents prepared by the auditors in accordance with the North Carolina Court
46 System's Rules of Recordkeeping and Records Retention and Disposition Schedule (the
47 "Rules"). Except as provided in this section, or upon an order issued in Wake County Superior
48 Court upon 10 days' notice and hearing finding that access is necessary to a proper
49 administration of justice, audit work papers, drafts, and all audit documents other than the final
50 audit report are available only to the Internal Audit Division, the Director, the Chief Financial
51 Officer, Legal Services, and other persons in the auditor's discretion for the limited purpose of

1 ensuring the accuracy and reliability of the final audit report. Pertinent work papers and other
2 supportive material related to issued audit reports may be, at the discretion of the auditor and
3 unless otherwise prohibited by law, made available for inspection by duly authorized
4 representatives of the State and federal government who desire access to and inspection of such
5 records in connection with some matter officially before them, including criminal
6 investigations.

7 (c) Where the professional guidelines, government standards, and the Rules fail to
8 specify or are in conflict, the Rules shall govern."

9 **SECTION 6.** Article 29 of Chapter 7A of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 7A-343.5. Definitions.**

12 The following definitions apply in this Article:

13 (1) "Internal auditing" means an independent, objective assurance and
14 consulting activity designed to add value to and improve an organization's
15 operations. Internal auditing helps an organization accomplish its objectives
16 by using a systematic, disciplined approach to evaluate and improve the
17 effectiveness of risk management, controls, and governance processes. The
18 types of audits the internal auditors may provide include, but are not limited
19 to:

- 20 a. Efficiency or economy audits to evaluate areas at risk and require
21 improvements to promote operating effectiveness and efficiency,
22 mitigate the risk of liability, and realize economies.
23 b. Financial audits to determine whether financial operations are
24 properly functioning.
25 c. Compliance audits or reviews to assess compliance with laws and
26 regulations.
27 d. Internal control audits to assess the controls related to financial
28 transactions and reporting.
29 e. Case file and procedural audits to ensure efficiency, effectiveness,
30 and compliance.
31 f. Performance and management audits entail an objective and
32 systematic examination of evidence to provide an independent
33 assessment of the performance and management of a program against
34 objective criteria as well as assessments that provide a prospective
35 focus or that synthesize information on best practices.
36 g. Investigative or fraud audits to make an independent assessment of
37 allegations of fraud, misuse, or process manipulation or alleged
38 violations of federal, State, or local laws.

39 (2) "Accounting system" means the total structure of records and procedures
40 which discover, record, classify, and report information on the financial
41 position and operating results of the Judicial Department, or a segment of the
42 Judicial Department, or any of its funds, balanced account groups, and
43 organizational components."

44 **SECTION 7.** G.S. 7A-271 is amended by adding a new subsection to read:

45 "(f) The superior court has exclusive jurisdiction over all hearings to revoke probation
46 pursuant to G.S. 15A-1345(e) where the district court is supervising a drug treatment court
47 probation judgment under G.S. 7A-272(e), except that the district court has jurisdiction to
48 conduct the revocation proceedings when the chief district court judge and the senior resident
49 superior court judge agree that it is in the interest of justice that the proceedings be conducted
50 by the district court. If the district court exercises jurisdiction under this subsection to revoke
51 probation, appeal of an order revoking probation is to the appellate division."

1 **SECTION 8.** G.S. 7A-272 is amended by adding a new subsection to read:

2 "(e) With the consent of the chief district court judge and the senior resident superior
3 court judge, the district court has jurisdiction to preside over the supervision of a probation
4 judgment entered in superior court in which the defendant is required to participate in a drug
5 treatment court program pursuant to G.S. 15A-1343(b1)(2b) or is participating in the drug
6 treatment court pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2). The
7 district court may modify or extend the probation judgment, but jurisdiction to revoke
8 probation supervised under this subsection is as provided in G.S. 7A-271(f)."

9 **SECTION 9.** G.S. 15A-1344(a) reads as rewritten:

10 "(a) Authority to Alter or Revoke. – Except as provided in subsection (a1) or (b),
11 probation may be reduced, terminated, continued, extended, modified, or revoked by any judge
12 entitled to sit in the court which imposed probation and who is resident or presiding in the
13 district court district as defined in G.S. 7A-133 or superior court district or set of districts as
14 defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed,
15 where the probationer violates probation, or where the probationer resides. Upon a finding that
16 an offender sentenced to community punishment under Article 81B has violated one or more
17 conditions of probation, the court's authority to modify the probation judgment includes the
18 authority to require the offender to comply with conditions of probation that would otherwise
19 make the sentence an intermediate punishment. The district attorney of the prosecutorial district
20 as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of
21 any hearing to affect probation substantially."

22 **SECTION 10.** G.S. 15A-1344 is amended by adding a new subsection to read:

23 "(a1) Authority to Supervise Probation in Drug Treatment Court. – Jurisdiction to
24 supervise and revoke probation imposed in cases in which the offender is required to participate
25 in a drug treatment court is as provided in G.S. 7A-272(e) and G.S. 7A-271(f). Proceedings to
26 modify or revoke probation in these cases must be held in the county in which the drug
27 treatment court or problem-solving court is located."

28 **SECTION 11.** G.S. 7A-39 reads as rewritten:

29 "**§ 7A-39. Cancellation of court sessions and closing court offices; extension of statutes of**
30 **limitations and other emergency orders in catastrophic conditions.**

31 (a) Cancellation of Court Sessions, Closing Court Offices. – In response to adverse
32 weather or other emergency situations, including catastrophic conditions, any session of any
33 court of the General Court of Justice may be cancelled, postponed, or altered by judicial
34 officials, and court offices may be closed by judicial branch hiring authorities, pursuant to
35 uniform statewide guidelines prescribed by the Director of the Administrative Office of the
36 Courts. As used in this section, "catastrophic conditions" means any set of circumstances that
37 makes it impossible or extremely hazardous for judicial officials, employees, parties, witnesses,
38 or other persons with business before the courts to reach a courthouse, or that creates a
39 significant risk of physical harm to persons in a courthouse, or that would otherwise convince a
40 reasonable person to avoid traveling to or being in a courthouse.

41 (b) Authority of Chief Justice. – When the Chief Justice of the North Carolina Supreme
42 Court determines and declares that catastrophic conditions exist or have existed in one or more
43 counties of the State, the Chief Justice may by order entered pursuant to this ~~subsection extend,~~
44 ~~subsection:~~

45 (1) Extend, to a date certain no fewer than 10 days after the effective date of the
46 order, the time or period of limitation within which pleadings, motions,
47 notices, and other documents and papers may be timely filed and other acts
48 may be timely done in civil actions, criminal actions, estates, and special
49 proceedings in each county named in the order. ~~(1) Catastrophic conditions~~
50 ~~defined. As used in this subsection, "catastrophic conditions" means any~~
51 ~~set of circumstances that make it impossible or extremely hazardous for~~

1 ~~judicial officials, employees, parties, witnesses, or other persons with~~
2 ~~business before the courts to reach a courthouse, or that create a significant~~
3 ~~risk of physical harm to persons in a courthouse, or that would otherwise~~
4 ~~convince a reasonable person to avoid travelling to or being in the~~
5 ~~courthouse. (2) Entry of order.—The Chief Justice may enter an order under~~
6 ~~this subsection during the catastrophic conditions or at any time after~~
7 ~~catastrophies such conditions have ceased to exist. The order shall be in~~
8 ~~writing and shall become effective for each affected county upon the date set~~
9 ~~forth in the order, and if no date is set forth in the order, then upon the date~~
10 ~~the order is signed by the Chief Justice.~~

11 (2) Issue any emergency directives that, notwithstanding any other provision of
12 law, are necessary to ensure the continuing operation of essential trial or
13 appellate court functions, including the designation or assignment of judicial
14 officials who may be authorized to act in the general or specific matters
15 stated in the emergency order, and the designation of the county or counties
16 and specific locations within the State where such matters may be heard,
17 conducted, or otherwise transacted. The Chief Justice may enter such
18 emergency orders under this subsection in response to existing or impending
19 catastrophic conditions or their consequences. An emergency order under
20 this subsection shall expire the sooner of the date stated in the order, or 30
21 days from issuance of the order, but the order may be extended in whole or
22 in part by the Chief Justice for additional 30-day periods if the Chief Justice
23 determines that the directives remain necessary.

24 (c) In Chambers Jurisdiction Not Affected. – Nothing in this section prohibits a judge
25 or other judicial officer from exercising, during adverse weather or other emergency situations,
26 including catastrophic conditions, any in chambers or ex parte jurisdiction conferred by law
27 upon that judge or judicial officer, as provided by law. The effectiveness of any such exercise
28 shall not be affected by a determination by the Chief Justice that catastrophic conditions existed
29 at the time it was exercised.

30 (d) Nothing in this section shall be construed to abrogate or diminish the inherent
31 judicial powers of the Chief Justice or the Judicial Branch."

32 **SECTION 12.** Sections 7 through 10 of this act become effective December 1,
33 2009, and apply to probation judgments entered or deferred prosecution agreements executed
34 on or after that date. The remainder of this act becomes effective July 1, 2009.