

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 1098

SHORT TITLE: Sedimentation Control Act Amendments

SPONSOR(S): Rep. Joe Hackney

FISCAL IMPACT

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

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES

DENR Special Acct.

*** Minimum Revenue Increase of \$869,000 ***

*** See Assumptions and Methodology ***

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: The Department of Environment and Natural Resources, Land Resource Division and the North Carolina General Contractors Licensing Board.

EFFECTIVE DATE: October 1, 1999 and applies to land-disturbing activity that occurs on or after that date.

BILL SUMMARY: The bill makes several changes to the existing Sedimentation Control Act of 1973. The Sedimentation Control Act requires that a person conducting a land disturbing activity involving the uncovering of more than one acre to file an erosion control plan at least 30 days in advance. It also outlines several erosion and sedimentation limitation practices and devises that must be used during construction and after the project is completed. The bill raises the maximum civil penalty for a violation of the act to \$5,000. It also clarifies that the penalty can be assessed from the date of the original violation and that additional penalties can apply for continued violations. The bill also removes the cap on the total amount of fees collected under this program. The bill also clarifies that a plan approval is conditional on the applicant's compliance with federal and state laws, regulations and rules. The legislation also states that certain types of erosion control plans must be forwarded to the Division of Water Quality. Finally, the bill mandates that questions on the Sedimentation Control Act be included on the general contractors licensing exam.

ASSUMPTIONS AND METHODOLOGY: There are three potential fiscal impacts to the bill. First, the bill increases the maximum civil penalty for a violation of the Sedimentation Control Act to \$5,000. The current maximum charge is \$500. The Division of Land Resources estimates that in FY 1996-97 forty (40) cases were referred to enforcement. In FY 1997-98 that

number increased to seventy-four (74). The Division reports that very few violators were actually charged the maximum per day penalty of \$500. In FY 1996-97 there were three cases where civil penalties of \$500 per day were charged. In FY 1997-98 there were four such cases. The Division can not effectively estimate the how often they would charge the new maximum per day penalty of \$5,000. Therefore, while there could be a small revenue increase as a result of this portion of the bill, an accurate fiscal estimate is not possible.

The second potential fiscal impact relates to removing the fee cap. Currently the Department can not charge more than \$50 per acre. Also, the total amount collected can not exceed 1/3 of the administrative and personnel costs associated with the program in the previous fiscal year. The Division of Land Resources reports that 1/3 cap is the true constraint. The current per acre fee is now approximately \$20. If the 1/3 expenditure cap were removed, the Division could increase its fee to as much as \$50. In FY 1996-97 the Division collected \$515,031 in per acre fees. In 1997-98 that amount increased to \$580,565. These numbers suggest that fees were charged on approximately 29,000 acres in FY 1997-98. Assuming the Division increased the fee to \$50, and the number of acres included remained at approximately 29,000, the fee revenue will increase to approximately \$1,450,00. This is an increase of approximately \$869,435. These funds are deposited in a special non-reverting account in the Department of Environment and Natural Resources and are used to offset the cost of the sedimentation program.

The third potential impact relates to changes in the general contractor's exam. The bill requires that the general contractor exam be modified to include questions about the Sedimentation Control Act. The Department of Insurance staffs the General Contractor's Licensing Board. Because the Division of Land Resources in DENR has agreed to write the questions, the cost to the Department of Insurance should be minimal.

FISCAL RESEARCH DIVISION: 733-4910

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