

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Fiscal Note

BILL NUMBER: House Bill 303 (Second Edition)

SHORT TITLE: Dispute Resolution Amendments.

SPONSOR(S): Representatives Horn, Daughtry, Davis, and Stevens

FISCAL IMPACT					
(\$ in thousands)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Estimate Available					
State Impact	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
General Fund Revenues:	(\$265.6)	(\$265.6)	(\$265.6)	(\$265.6)	(\$265.6)
General Fund Expenditures:					
Special Fund Revenues:	\$265.6	\$265.6	\$265.6	\$265.6	\$265.6
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
The Administrative Office of the Courts					
EFFECTIVE DATE: July 1, 2015 for Sections 1-5. December 1, 2015 for Section 6.					
TECHNICAL CONSIDERATIONS:					
None					

FISCAL SUMMARY:

The bill creates a new nonreverting, interest-bearing special revenue account within the Judicial Department for the use of the Dispute Resolution Commission (Commission) which will accrue revenue from the administrative fee from application for certification and renewal and costs from training program participants. In FY 2014-15, the Commission has expected revenues of \$265,624. These revenues would be shifted from General Fund to the new special fund in FY 2015-16 and thereafter.

BILL SUMMARY:

Sections 1 through 4 of this bill amend several statutes authorizing legislation for court mediation programs for which the Dispute Resolution Commission (Commission) certifies mediators. Throughout these sections, this bill changes “disciplinary proceedings” to “hearings,” and changes “any agency established to enforce standards of conduct for mediators or other neutrals” to “the Dispute Resolution Commission.”

Section 5 amends G.S. 7A-38.2(d) by establishing the Dispute Resolution Fund. This new nonreverting, interest-bearing special revenue account within the Judicial Department will contain the administrative fees from applications for certification and renewal, and costs from training program participants. Monies in this new fund shall be used at the discretion of the Commission to

support operations. Also in Section 5, existing subsection (e) is amended to refer to the Commission's "executive director," instead of "executive secretary."

Section 6 creates two new subsections in existing G.S. 7A-38.2. New subsection (l) allows the Commission to issue a cease and desist letter to any individual who falsely represents himself or herself as a certified mediator. New subsection (m) makes it illegal to hold oneself out as a certified mediator, or as eligible to be certified, or for an individual or firm or falsely represent a mediation training program as certified or eligible to be certified. Violators of this provision are guilty of a new Class 2 misdemeanor offense and are subject to a civil penalty not to exceed \$500 per day of the violation(s). Civil penalties collected under this subsection are to be remitted to the Civil Penalty and Forfeiture Fund. Also in new subsection (m), the Commission is allowed to appear in its own name and file in Wake County superior court for an injunction to prevent violations of this section. The court may grant these injunctions regardless of whether criminal prosecution or other actions have been or may be instituted as a result of those violations.

Section 6 of this bill has an effective date of December 1, 2015, and applies to offenses committed on or after that date. The remainder of this bill has an effective date of July 1, 2015, and applies to mediations commenced after that date.

ASSUMPTIONS AND METHODOLOGY:

The bill creates a new nonreverting, interest-bearing special revenue account within the Judicial Department which will accrue revenue from the administrative fee from application for certification and renewal and costs from training program participants. This will require the establishment of a special fund center, which will be implemented jointly between the Administrative Office of the Courts (AOC), the Office of State Budget and Management, and the Office of State Controller.

The bill stipulates in amended G.S. 7A-38.2(d) that this new fund shall be used at the discretion of the Dispute Resolution Commission (Commission) to support operations. This change will allow the Commission to have increased control of cash flow and to more accurately budget for long and short term expenditures without the risk of potential reversions to the State's General Fund. The Commission's current funding is subject to General Fund reversion and the carry-forward process.

In FY 2014-15, the Commission has expected revenues of \$265,624. These revenues would be shifted from General Fund to the new special fund in FY 2015-16 and thereafter.

Criminal Impact

Because this bill creates a new offense, AOC does not have historical data upon which to estimate how many charges of the Class 2 misdemeanor of falsely representing oneself as a certified mediator may be filed in an average year. New misdemeanor charges would have an impact on court personnel time. On average, the monetary value of court personnel time to process each Class 2 misdemeanor case is estimated at \$88. In addition to the Class 2 misdemeanor offense, new G.S. 7A-38.2(m) requires offenders to be subject to a civil penalty not to exceed \$500 per day of the violation. Criminal court costs may be imposed on defendants after they have been found to be guilty or responsible. Additional cost items may apply for individual factors of the case, such as supervision fees or jail fees, or for specific offenses of conviction, such as improper equipment or

impaired driving. Fiscal Research Division cannot estimate costs to the court system or revenues from court costs related to this new Class 2 misdemeanor at this time.

Civil Impact

New G.S. 7A-38.2(m) allows the Dispute Resolution Commission to appear in its own name and file in Wake County superior court for an injunction to prevent violations of this section. These cases heard in superior court will have an impact on court personnel time. The cost per disposition for the average civil superior case is \$1,042. Fiscal Research Division cannot estimate costs to the court system or revenues from court costs related to these civil filings at this time.

SOURCES OF DATA: Administrative Office of the Courts; Fiscal Research Division.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: William Childs

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: April 10, 2015



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