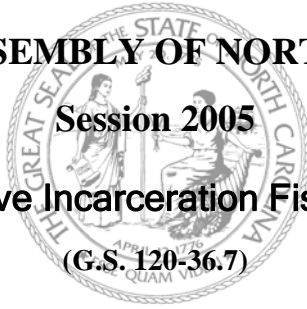


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1845 (First Edition)
SHORT TITLE: Permitted Use of Campaign Funds.
SPONSOR(S): Representatives Eddins, Hackney, Howard, and Ross

FISCAL IMPACT table with columns for Yes (X), No (), and No Estimate Available () across fiscal years FY 2006-07 to FY 2010-11. Rows include GENERAL FUND (Correction, Judicial), ADDITIONAL PRISON BEDS*, POSITIONS: (cumulative), and PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch. Includes an EFFECTIVE DATE of January 1, 2007 and a disclaimer note.

BILL SUMMARY: Current law does not restrict the use of campaign funds for a candidate's personal purposes as long as that personal use is publicly reported. Presently, restrictions on personal usage apply only to candidates or political parties that receive public funding. Accordingly, this bill enacts new statute GS 163-278.16B to permit certain uses of campaign funds and to prohibit the conversion of campaign funds for personal use.

Permitted uses include:

1. Ordinary expenditures made in connection with the candidate's campaign or in fulfilling the duties of elected office.
2. Donations to certain charitable organizations, to a political party, or to another candidate for NC office.
3. Return contributions to a contributor.
4. Payment of penalties assessed against the candidate's campaign committee by a board of election or court.

In general, prohibited uses are those that fulfill any commitment, obligation, or expense that would exist irrespective of the candidate's election campaign or duties or activities as officeholder.

Specific prohibited uses include:

1. The use of campaign contributions for living expenses, such as mortgage, rent, food, or auto expenses.
2. Other leisurely expenses, such as country club or health club memberships, tuition, vacations, entertainment, or contributions to retirement accounts.

In addition, the act amends GS 163-278.11(a)(2) to require additional detail in reporting campaign expenditures, specifically the: i) itemization of individual goods or services purchased when one lump sum payment is made; ii) itemization of each bill paid in the case of payment to a credit card company; and, iii) itemization of services or goods purchased for media advertising and other payments the provider has made on behalf of a campaign.

The bill amends G.S. 163-278.27(a) to make it a Class 2 misdemeanor for certain individuals and entities to intentionally violate campaign finance provisions.

Source: Adapted from Bill Digest H.B. 1845 (05/09/0200).

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon, or beyond.*

Because this bill creates a new criminal penalty, there is no historical data from which to estimate the impact on the State's prison population, or to project the number of offenders who could be sentenced under the act. *However, it is assumed that most political candidates and campaign committees will comply with the law. Thus, no significant impact is anticipated.*

In 2004-05, 16% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 11.8 days. Because offenders serving active sentences of 90 days or less are housed in county jails, *there is no anticipated impact on the State's prison population*. The impact on local jails cannot be determined.

Department of Correction – Division of Community Corrections

Anticipating compliance, there is no significant impact projected for Community Corrections. In 2004-05, approximately 83% of those convicted of Class 2 misdemeanors received community punishment, predominately special probation. Offenders given community supervised probation are supervised by probation officers who provide general supervision at a cost to DCC of \$1.93 per offender, per day. For intensive supervision probation or electronic house arrest, the daily costs are higher – \$12.95 and \$6.71, respectively.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee; those serving community service are required pay a one-time fee of \$200; and those on electronic house arrest or electronic monitoring must pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research 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.

There is no data with which to project the number of violations that might result under new G.S. 163-278.16B, though it is assumed that most candidates and campaign committees will comply with the law. Accordingly, *few cases are anticipated*. In calendar year 2005, one defendant was charged with campaign contribution violations under 163-278.13. Currently, the AOC estimates court-time costs for Class 2 misdemeanors of \$2,380 per trial and \$211 per plea.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

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