

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2013**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 853 (Fifth Edition)

**SHORT TITLE:** Business Court Modernization.

**SPONSOR(S):** Senators Rucho and Barringer

<b>FISCAL IMPACT</b>					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
<b>State Impact</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
General Fund Revenues:	13,400	13,400	13,400	13,400	13,400
General Fund Expenditures:	66,823	64,013	64,666	65,538	66,504
State Positions:	1.0	1.0	1.0	1.0	1.0
<b>NET STATE IMPACT</b>	<b>(\$53,423.0)</b>	<b>(\$50,613.0)</b>	<b>(\$51,266.0)</b>	<b>(\$52,138.0)</b>	<b>(\$53,104.0)</b>

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:**  
The Administrative Office of the Courts

**EFFECTIVE DATE:** Sections 1, 3, 4, and 6: October 1, 2014. Section 7 and the remainder: when the bill becomes law.

**TECHNICAL CONSIDERATIONS:**  
Yes - See Technical Considerations Section

**FISCAL SUMMARY:**

Fiscal Research Division estimates the minimum fiscal impact of this bill as a net cost of \$53,423 in FY 2014-15. Assuming that the number of Business Court filings remains constant, the increase in filing fees in Section 4 would increase General Fund revenues by a minimum of \$13,400 per year. The increased reporting requirements in Section 5 would require one new position, a Superior Court Judicial Assistant II, with costs of \$63,748 recurring and \$3,075 in nonrecurring start-up costs in FY 2014-15. Increases to the number of Business Court cases may require other additional costs for new Business Court judges and staff in later years, as well.

**BILL SUMMARY:**

Section 1.1 of this bill amends G.S. 7A-27(a) to expand the cases in which appeal by right lies directly with the Supreme Court to include those cases that arise from a mandatory complex business case pursuant to G.S. 7A-45.4 or designated as a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

Section 2 amends G.S. 7A-45.3 to require a presiding judge to issue a written opinion when granting or denying certain motions or in a final disposition of a Business Court case.

Section 3 amends G.S. 7A-45.4 by increasing the types of issues that would be eligible for designation as complex business cases. These include the addition of disputes involving trade secrets, certain contract disputes, and certain disputes involving \$5,000,000 or more in controversy. New subsection (g) provides that a Superior Court judge may transfer a case described in G.S. 7A-45.4(b)(2) to the Business Court prior to trial. For cases described in G.S. 7A-45.4(b)(1) or (b)(3), the Superior Court judge is directed to stay the action until the case has been designated as a mandatory complex business case pursuant to this section. New subsection (h) stipulates that the changes in this section do not intend for person injury tort claims to be designated as mandatory complex business cases.

Section 4 amends existing G.S. 7A-305(a)(2) to increase the filing fee for complex business cases from \$1,000 to \$1,100.

Section 5 adds new subsection (8a) in existing G.S. 7A-343 to require the Director of the Administrative Office of the Courts (AOC) to prepare and submit a semiannual report on the activities of each North Carolina business court suite that contains the “total number of civil cases pending in each business court site over three years after being designated as a mandatory complex business case, motions pending over six months after being filed, and civil cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.”

Sections 6 and 7 amend Article 11 of Chapter 55 by adding a new section and do not appear to have an impact on the court system.

Section 8 creates “The Working Group on Judicial Efficiency and Business Court Modernization” (Working Group). The 18 members may “study court efficiency, resource management, and other management needs of the General Court of Justice” and, in addition to studying the implementation of this bill, “may study any other issue it deems relevant to this study.” The Working Group may submit an interim report, including proposed legislation, to the General Assembly at any time and shall submit a final report on the results of the study prior to the convening of the 2015 General Assembly. The Working Group is intended to terminate upon the convening of the 2015 General Assembly or upon filing the final report, whichever occurs first.

Section 1 applies to actions designated as mandatory complex business cases on or after October 1, 2014. Sections 3 and 4 apply to actions commenced or petitions filed on or after October 1, 2014. Section 6 becomes effective October 1, 2014. Section 7 becomes effective when it becomes law. Unless otherwise provided, the remainder of this bill becomes effective when it becomes law.

#### **ASSUMPTIONS AND METHODOLOGY:**

Fiscal Research Division estimates the minimum fiscal impact of this bill as a net cost of \$53,423 in FY 2014-15. Assuming that the number of Business Court filings remains constant, the increase in filing fees in Section 4 would increase General Fund revenues by a minimum of \$13,400 per year. The increased reporting requirements in Section 5 would require one new position, a Superior Court Judicial Assistant II, with costs of \$63,748 recurring and \$3,075 in nonrecurring

start-up costs in FY 2014-15. Increases to the number of Business Court cases may require other additional costs for new Business Court judges and staff in later years, as well.

Section 1 of the bill shifts the venue for appeal of right for the final judgment in all Business Court cases from the Court of Appeals to the Supreme Court and Section 3 expands the issues applicable for a case to qualify as a complex business case. AOC is unable to estimate how many additional cases will be designated as mandatory complex business cases and how many cases will be appealed to the Supreme Court. Of the approximately 250 cases currently pending in the North Carolina Business Court, 19 of those cases are on appeal with the Court of Appeals. Any increase in appeals to the Supreme Court may slow the current disposition rate.

Section 2 of the bill requires the presiding Business Court judge to issue a written opinion when granting or denying certain motions and upon the final disposition of a case, which may require additional staff to handle the drafting of these opinions if the additional filings made possible by Section 3 are significant in volume.

Significant increases in case volume for the Business Court may lead to the need for additional Business Court judges in the future. All Business Court judges are Special Superior Court Judges appointed by the Governor. One new Special Superior Court judgeship has an annual cost of \$204,361 in recurring funds and \$6,017 in nonrecurring start-up costs. Under current practice, each Business Court judge is assigned two legal assistants and one judicial assistant with a total annual cost of \$205,418 recurring and \$15,895 in nonrecurring start-up costs. The total annual cost of one additional Business Court judge and staff would therefore be \$409,779 recurring with \$21,912 nonrecurring start-up costs. If an existing Special Superior Court Judge were to be designated as a Business Court Judge, the State would need to support the annual staffing cost of \$205,418 recurring and \$15,895 nonrecurring. Additionally, if the Business Court opens an additional site, the new facility space would need to be provided by the county, per statute, or by the State for an estimated cost of \$127,000 recurring and \$258,868 nonrecurring in the first year of operations.

Section 4 increases the filing fee for Business Court cases. In calendar year 2013, 134 cases were assigned to the Business Court. Assuming that at least as many cases are assigned to the Business Court following the changes in this bill, the increased filing fee would generate a minimum of \$13,400 in each year of operations. The increase in the filing fee in Section 4 would require AOC to make programming changes to two of the financial IT components: FMS and Cash Receipting.

The reporting requirement in Section 5 would require an enhanced case management system in order to track the required variables. Without an upgrade to the current Business Court case management system, implementation of this section would require funding for an additional Business Court Judicial Assistant II to manage this information under the current system and produce the reports. The annual cost of a Business Court Judicial Assistant II is \$63,748 recurring and \$3,075 in nonrecurring start-up costs.

**SOURCES OF DATA:** The Administrative Office of the Courts

**TECHNICAL CONSIDERATIONS:**

When designating a case as a complex business case, the specific dollar threshold amounts in Section 3 may divert some cases that should be Business Court cases from the court and may assign some cases that do not properly belong in Business Court into its venue. For instance, a case involving a large dollar amount might easily be a relatively run-of-the-mill business dispute that simply happens to involve a large sum of money. On the other hand, another case may involve a dispute over a smaller dollar amount that presents a novel issue of law and would therefore be appropriate for handling by the Business Court.

Additionally, AOC would need a later effective date of December 1, 2014 for Section 3 to allow adequate time to make the required changes to forms, technology programs, and recordkeeping processes and to provide information and education on this change to court officials throughout the State.

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** William Childs

**APPROVED BY:**

Mark Trogdon, Director  
**Fiscal Research Division**



**DATE:** July 2, 2014

**Signed Copy Located in the NCGA Principal Clerk's Offices**