

N.C. GENERAL ASSEMBLY LEGISLATIVE FISCAL NOTE

Fiscal Research
733-4910

Prepared By: Louise Young	Date Prepared: 6/22/89	Bill No.: H 696	Edition: PCS 7348
Approved By: Tom Covington TOMC	6/23/89		Sponsor: Rep. Redwine
Short Title: Commodity Act			

TYPE OF FISCAL IMPACT	COUNTY/		FUNDS AFFECTED:			
	State Gov't	Local Gov't	(x) General	() Highway	() Other: Local	
			State Fiscal Impact	FY	FY	FY
No Fiscal Impact	()	(x)	State Total Req'ments (A)	\$44,000	\$36,500	
			Receipts/Revenues	0	0	
Increase Expenditure	(x)	()	Net State Expend./Rev.	44,000	36,500	
			No. of Positions			
Decrease Expenditure	()	()				
			Local Fiscal Impact	FY	FY	FY
Increase Revenue	()	()	Local Total Req'ments	0	0	
			Receipts/Revenues			
Decrease Revenue	()	()	Net Local Expend./Rev.			
No Estimate Avail.	()	()	No. of Positions			

Description of Legislation

1. Summary of Legislation

COMMODITY ACT. "TO PROVIDE A COMMODITIES ACT." Enacts new G.S. Ch. 78D, creating Commodities Act to regulate sales of commodity contracts or options in North Carolina. Makes it unlawful to sell or purchase any commodity under a commodity contract or commodity option or to enter into commodity contract or options except as expressly permitted by Act. Makes it unlawful to act as commodity agent without being registered with Commodity Futures Trading Commission. Sets out prohibited fraudulent conduct in the sale of commodity contracts or options. Exempts an option traded on national securities exchange and registered with US Securities and Exchange Commission. Prohibition on sale does not apply to transactions involving persons registered with federal Commodity futures Trading commission, a person registered with Securities and Exchange

Commission, a person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by, one of the above-mentioned persons, a person who is a member of a contract market designated by Commodity Futures Trading Commission, a financial institution, or a person registered under North Carolina law as a securities broker-dealer. Nor does prohibition apply to transactions within exclusive jurisdiction of Commodity Futures Trading Commission; certain specified commodity contracts for the purchase of precious metals; a commodity contract solely between persons engaged in producing, processing or using commercially the commodity; or a contract under which purchaser is an insurance or investment company or pension and profit sharing or benefit plan. G.S. 78D-26 authorizes Secretary of State to cooperate (including bearing expense of cooperations) with securities agencies, administrator, any governmental law enforcement agency, other agencies and organizations, national and international, to encourage uniform application and interpretation of this Chapter and securities regulation and enforcement in general.

Authorizes Secretary of State to make investigations to determine whether violations of Act exist and grants subpoena power and authority to require production of documents to Secretary. Authorizes Secretary of State to appoint commodities law enforcement agents and other enforcement personnel, whose responsibility is enforcement of chapter. Authorizes Secretary of State to enforce Act by issuing cease and desist orders; issuing orders imposing civil penalty of up to \$25,000 for a single violation and \$500,000 for multiple violations; issuing an order requiring reimbursement of costs of investigation; or instituting action in court for a declaratory judgment, injunction, action for disgorgement or appointment of a receiver for defendant or his assets. Provides that court may not require Secretary to post bond and specifies power of court to grant relief. Makes it Class H felony to violate provision of Act or rule by Secretary under Act, but provides that person violating rule subject to fine only if provides he had no knowledge of rule. Sets out provisions for Secretary of State's administering Act and procedures for administrative proceedings to enter order. Provides for review of order in Superior Court in Wake County.

2. Effective Date - October 1, 1989

3. Fund or Tax Affected General Fund

4. Principal Department/Program Affected Secretary of State, Securities

Cost or Revenue Impact on State

FY

FY

FY

	88-89	89-90
1. Non-Recurring Costs/Revenues (A)	\$7,500	
2. Recurring Costs/Revenues (A)	\$36,500	\$36,500
3. Fiscal/Revenue Assumptions		

(A) COST IMPACT ON STATE

The Department indicates that the existing staff of Investigators and Legal Specialists can handle the responsibilities required under the provisions of this bill. However, the granting of law enforcement power and authority to the investigators will require additional operating funds of approximately \$36,500 each fiscal year of the 1989-91 biennium and a minimum of \$7,500 in non-recurring costs in 1989-90. The additional operating costs include one position to operate a Police Information Network (PIN) terminal, \$3,300 annually for the terminal, additional employer retirement contributions (LEOBRF) for Investigators and increased travel charge of 4 cents per mile for vehicles. The estimated non-recurring costs consist of office furniture and equipment for new position, firearms, and special equipment for motor vehicles.

The estimated costs do not include any funds authorized by G.S. 78D-26 (page 17, line 20) for bearing the expense of cooperation with other agencies, national and international, to encourage uniform application and interpretation of this Chapter and securities regulation and enforcement in general. Additional costs not included in the estimate may be necessary for law enforcement training and certification and the use of motor vehicles for commuting without charge.

Cost/Revenue Impact on County or Local Government: None

	FY	FY	FY
	88-89	89-90	
1. Non-Recurring Costs/Revenues			
2. Recurring Costs/Revenues			
3. Fiscal/Revenue Assumptions			

Sources of Data for Fiscal Note

Technical Considerations/Comments

The prospective appointment of attorneys on the Secretary of State's staff as a Special Prosecutor for the District Attorney or the Attorney General would overlap with their prosecutorial authority and such prosecutorial authority is not granted to other attorneys in State government. (Page 16, Line 8)

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