

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1183 (House Committee Substitute)

SHORT TITLE: NCRR Amendments

SPONSOR(S):

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>
REVENUES					
General Fund					
Highway Fund					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts					
EFFECTIVE DATE: December 1, 2000 (Section 10)					

BILL SUMMARY:

S 1183. NCRR AMENDMENTS. Enacts new Art. 2 of GS Ch. 124 specifying powers of State-owned railroad company (including power of eminent domain). Enacts new Art. 3 of GS Ch. 124 establishing procedure for summary removal of encroachments upon property owned by State-owned railroad company. Makes additional conforming amendments to GS Ch. 124. Enacts new GS 136-199 providing that, in absence of clear and unambiguous language to the contrary, conveyance of property to State-owned railroad company is presumed to include all subsurface rights below and all air rights above property. Amends GS 62-180 to provide that right to construct, maintain, and operate power and phone lines along railroad may be acquired only by agreement or eminent domain pursuant to GS 62-185. Enacts new GS 14-280.1 to create criminal offense (Class 2 misdemeanor) for trespassing on railroad right-of-way. Exempts employees of State-owned railroad company from provisions of GS Ch. 97. Allows, without consent of General Assembly, sale or transfer of stock in NC Railroad Company (NCRR) owned by State of NC to entity that is wholly owned by State or pursuant to reorganization of NCRR. Provides that dividends of NCRR received by State must be used to reduce specified obligations of NCRR and for improvement of NCRR property. Provides that, effective Jan. 1, 2000, interest shall not be accrued on balance of specified NCRR obligations and that interest accrued for period prior to Jan. 1, 2000 is deemed paid and contributed by State to capital of NCRR. Effective Dec. 1, 2000.

June 14, 2000

S 1183. NCRR AMENDMENTS. Intro. 5/9/00. Senate committee substitute makes the following changes to 1st edition. Provides that conveyance of property to railroad company does not include any valid encumbrance of record. Amends procedure for summary removal of encroachments upon railroad property to specify that encroachment does not include telegraph, telephone, electric power, or lighting company that is exercising rights under eminent domain statutes and to provide that procedure does not apply to claims between railroad companies subject to federal jurisdiction. To exclude from offense of trespassing on railroad property telegraph, telephone, electric power, or lighting company that is exercising rights under eminent domain statutes.

June 30, 2000

S 1183. NCRR AMENDMENTS. (HOUSE COMMITTEE SUBSTITUTE) Intro. 5/9/00. House committee substitute makes the following changes to 2nd edition. (1) Deletes provisions directing any dividends of the railroad company received by the state to be applied to reduce certain obligations of the railroad and for improvement of the railroad property. (2) Deletes provision repealing GS 124-2 (providing that when an appropriation is made by the state to any work of internal improvement conducted by a corporation, the state is considered a stockholder in the corporation. (3) Changes the bill's amendments to GS 124-3 detailing the information to be included in a report from the railroad (or other internal improvement) to the Joint Legislative Commission on Governmental Affairs, restoring required information regarding debt and adds provisions authorizing the governor or any committee of the General Assembly to request additional information and specifying how confidential information is to be handled. (4) Limits the authority found in new GS 124-12 for the railroad to lease, license or improve its right-of-way to "the purpose of preserving and protecting its railroad corridor and franchise" (original bill, "for any purpose"). (5) Adds a provision specifying that nothing in Chapter 124 is to limit the rights of shareholders of the railroad company as provided in Chapter 55. (6) Deletes addition of new GS 136-199 providing that in general a conveyance of property to a railroad company is presumed to include all subsurface and air rights. (7) Adds a provision to GS 40A-3(a) authorizing condemnations in fee simple by the state-owned railroad for certain purposes. (8) Deletes from bill all provisions adding new Article 3 ("Summary Removal of Encroachments") from GS Chapter 124. (9) Changes new GS 14-280.1 to make trespassing on railroad right-of-way a Class 3 misdemeanor (formerly Class 2).

ASSUMPTIONS AND METHODOLOGY:

Section 10 would enact new G.S. 14-280.1, trespassing on railroad right-of-way, a Class 3 misdemeanor. In 1999, nearly 22,000 defendants were charged with Class 3 misdemeanor trespass under G.S. 14-159.13, an offense that requires either notice not to enter, or posting. AOC has no data on how many of these offenses involved railroad rights of way. New G.S. 14-280.1 does not expressly require notice or posting -- the offense is committed merely by entering or remaining on a railroad right-of-way without consent of the railroad or operator. It may be, therefore, that the new offense could be charged in circumstances not covered by existing law.

There are no data readily available from which to estimate the frequency that the new offense would be charged or to estimate the impact on the court system or to quantify the costs. However, because Class 3 Misdemeanors rarely involve active (prison) sentences and because there is no reason to assume that a significant portion of the 22,000 trespass charges involve railroad property, the Fiscal Research Division believes that any impact on the courts from this

individual bill can be absorbed within existing resources. Therefore, there is no fiscal impact on the Department of Correction or the Administrative Office of the Courts due to this bill.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

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DATE: July 7, 2000



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