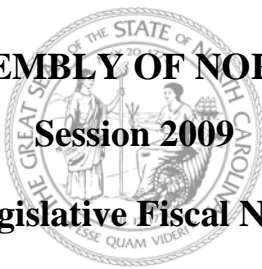


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 332 (Second Edition)

SHORT TITLE: Zoo and Zoo Funds Modifications.

SPONSOR(S): Senator Brunstetter

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES	*** See Assumptions & Methodology ***				
EXPENDITURES	\$0	\$0	\$0	\$0	\$0
POSITIONS (cumulative):	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
North Carolina Zoological Park – Department of Environment & Natural Resources General Assembly					
EFFECTIVE DATE: Part VI becomes effective on June 30, 2009; the remainder is effective when it becomes law.					

BILL SUMMARY:

S.B. 332, the Zoo and Zoo Funds Modifications, modifies the purchasing and contracting authority of the Department of Environment and Natural Resources (DENR) on behalf of the North Carolina Zoological Park (Zoo). It expands the Umstead exemption for the Zoo; improves the administration of park operations; requires a reporting of the progress and implementation of the mandates of this act; and establishes the North Carolina Zoological Park Funding and Organization Study Committee. The second edition provides for the annexation of property owned by the North Carolina Zoological Society, Inc into the corporate limits of the City of Asheboro.

Source: Bill Digest S.B. 332 (02/25/0200).

ASSUMPTIONS AND METHODOLOGY:

Part I: Purchasing and Contracting

S.B. 322 amends Article 8 of GS Chapter 143 by adding new GS 143-129.8A setting forth additional procedures whereby DENR may contract with non-state entities on behalf of the Zoo for the acquisition of goods and services where the contract directly results in the generation of revenue for the state, or the use of the goods and services by the Park results in increased revenue or decreased expenditures for the state. The bill allows contracts to be entered into under a request

for proposals procedure that satisfies listed minimum requirements, allowing DENR to use procurement methods under GS 143-135.9 in developing and evaluating requests for proposals. S.B. 332 also provides for negotiations between DENR and a proposer, and authorizes DENR to acquire goods and services for the Zoo using the Best Value procurement method or, for highly complex acquisitions, using a government-vendor partnership.¹

These changes to the procurement and contracting authority may reduce the Zoo's operating costs. However, the extent of the potential reduction is unknown and would depend upon the use of the bestowed authority.

Part II: Expansion of Umstead Act Exemption

The Umstead Act prohibits State government agencies from competing with private commercial activities. G.S. 66-58 excludes activities such as

- Selling goods, wares, or merchandise in competition with citizens of the State
- Operating restaurants, cafeterias, or other eating places in any building owned by or leased in the name of the State,
- Maintaining service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises,
- Providing transportation services,
- Contracting with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency,
- Purchasing for or selling to any person, firm or corporation any article of merchandise in competition with private enterprise.
- Leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred.²

Under the current Umstead Act, the Zoo is allowed to lease no more than 50 acres within the North Carolina Zoological Park to the North Carolina Zoological Society for the maintenance or operation, pursuant to a contract or otherwise, of an exhibition center, theater, conference center, and associated restaurants and lodging facilities. S.B. 332 would fully exempt the activities of the Zoo from the Umstead Act.

By expanding the Zoo's Umstead Act exemption, S.B. 332 may increase future revenue for the Zoo. However, the expected revenue from the exemption cannot be determined. The amount of revenue will depend upon the nature of and extent to which the Zoo enters into revenue generating businesses or partnerships.

Part III-IV: Administrative Changes and Reporting

Sections III and IV direct DENR to work with the Zoo to:

- (1) Identify opportunities for delegating purchasing and contracting responsibilities to the Zoo;
- (2) Consider increasing the amount over which the Park must solicit competitive bids or quotes to \$5,000;

¹Bill Digest S.B. 332 (02/25/0200).

² See G.S. 66-58: Sale of Merchandise or Services by Governmental Units

- (3) Negotiate with the Office of Information Technology Services to address IT needs; and
- (4) Address other administrative concerns, particularly the Memorandum of Understanding (MOU) between DENR and the North Carolina Zoological Society. The current MOU was executed on August 23, 1993, and has not been revised or updated since.

Part IV Requires DENR to report to the NC Zoological Park Funding and Organization Study Committee and the Fiscal Research Division on its progress by January 15, 2010.

These administrative changes should have no fiscal impact on the State or the Zoo.

Part V: Funding and Organization Study Committee

Part V establishes, by legislative enactment, the North Carolina Zoological Park Funding and Organization Study Committee. The Committee was established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(al), Rule 31 of the Rules of the Senate of the 2007 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly; that authorization provides for termination of the Committee by December 31, 2008. S.B. 332 re-authorizes this Committee and provides it with the same powers and duties as that of the previous Committee. The committee is required to report its findings and recommendations to the 2010 session of the General Assembly and the Environmental Review Commission by May 1, 2010.

As this Study Committee was established in 2007, the costs associated with the Committee are already included in the General Assembly's FY2008-09 budget. Therefore, S.B. 332 should not increase costs over the budget FY2008-09 continuation budget level.

Part VI: Annexation

The second edition of S332 provides for the annexation of property owned by the North Carolina Zoological Society, Inc into the corporate limits of the City of Asheboro. This annexation should have no fiscal impact on the State or the Zoo.

SOURCES OF DATA:

Bill Digest
The Umstead Act

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Lanier McRee Sarah Poteat

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: June 30, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices