

GENERAL ASSEMBLY OF NORTH CAROLINA

Fourth Extra Session 2016

Legislative Fiscal Note

BILL NUMBER: Senate Bill 4 (First Edition)
SHORT TITLE: Bi-Partisan Ethics, Elections & Court Reform.
SPONSOR(S): Senators Rucho, Rabon, and Tucker

FISCAL IMPACT					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
State Impact					
General Fund Revenues:					
State Board of Elections and Ethics Enforcement					
General Fund Expenditures:	See Assumptions and Methodology				
State Board of Elections and Ethics Enforcement					
State Positions:					
NET STATE IMPACT	No estimate available. Please see Assumptions & Methodology section for additional details.				
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	No estimate available. Please see Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
State Board of Elections, Ethics Commission, Secretary of State, Judicial Branch					
EFFECTIVE DATE: When becomes law and as specified in the bill.					
TECHNICAL CONSIDERATIONS:					
None					

BILL SUMMARY:

Senate Bill 4 (SB 4), Bi-Partisan Ethics, Elections & Court Reform, makes several administrative and judicial branch changes.

Part I creates the Bipartisan State Board of Elections and Ethics Enforcement (State Board) and eliminates the current State Ethics Commission and State Board of Elections. Additionally, the

lobbying regulation function and staff of Secretary of State is moved into the purview of the new State Board.

Part II states that the legislature will remain the sole authority to apportion districts.

Part III will change the elections of Supreme Court Justices and Court of Appeals' Justices from nonpartisan to partisan elections.

Part IV makes several changes to the Court of Appeals. First, section 22(a) allows the Court of Appeals to sit en banc to hear or rehear any appeal upon the vote of a majority of the judges on the court. Section 22(b) eliminates the right to appeal directly to the Supreme Court from a trial court order holding an act to be facially invalid because it violates the NC Constitution or federal law. Section 22(c) allows an appeal of right to the Supreme Court from a decision of the Court of Appeals sitting as a panel of three in which there is a dissent after either the Court of Appeals sitting en banc has rendered a decision in the case (if it was heard en banc) or the time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing. Section 22(d) makes several conforming changes. Section 22(e) eliminates the right to seek discretionary review by the Supreme Court prior to the appeal's determination by the Court of Appeal in certain cases involving the Commissioner of Insurance. Section 22(f) eliminates the appeal of right directly to the Supreme Court from any final order or judgment of a court declaring unconstitutional or otherwise invalid an act apportioning or redistricting State legislative or congressional districts. Finally, Section 23(a) amends a Rule of Civil Procedure governing the jurisdiction over matters challenging an act's facial validity.

Part V makes three changes related to the Industrial Commission. First, section 24(a) amends G.S. 97-77(a1) such that an appointee filling a vacancy due to death, incapacity, resignation, or any other reason prior to the expiration of the term of office shall serve the remainder of the unexpired term plus a six year subsequent term. Second, section 24(a) changes G.S. 97-77(b) to require the Governor to appoint the chair of the Commission on December 31, 2016 and every four years thereafter. Section 24(a) is effective when the bill becomes law. Third, section 24(b) returns G.S. 97-77(a1) to the original language under which an appointee filling a vacancy serves only the remainder of the unexpired term. Section 24(b) is effective December 31, 2016.

ASSUMPTIONS AND METHODOLOGY:

Part I

Board Membership and Meetings

The combining of the boards reduces the total number of board members from 13 (total of the 2 boards) to 8 which reduces the number of individuals to receive per diem, subsistence, and travel as allowed by law for their service days. Part I requires the State Board to meet monthly. Currently, the Ethics Commission meets only quarterly and upon notification by the Chair and State Board of Elections board is only required to meet for canvassing of elections and in July of odd years to appoint county board members or when called by the Chair or any two members collectively. While there may be more required meetings of the new State Board, there are less members of the new State Board to receive the reimbursements and other variables that go into the

total paid per members; therefore, there is no estimate available as for an increase or decrease of costs associated with the meetings of the new State Board.

Information Technology

In FY 2016, the State Ethics Commission received funding of \$850,000 for an upgrade of their technology for filing of Statements of Economic Interest; the agency is still early in their process for obtaining a new system and there exists an opportunity to adjust the scope of the project to include a lobbying compliance function. There is no estimate available as to what the incremental cost would be to add the lobbying compliance function to the new ethics reporting tracking.

In FY 2014-15, The State Board of Elections received an appropriation of \$390,871 to match the Help America Vote Act (HAVA) funds and were directed to update their Statewide Elections and Information System which is the voting system for registered voters and elections. That project is ongoing and it is assumed that database/system would remain a separate system of the ethics/lobbying compliance and reporting database.

Office Space

If the new State Board co-locates its staff, there is room at the current State Board of Elections offices. There may need to be renovation of their large meeting room to accommodate staff offices. The State Board of Elections estimates the renovation amount of about \$65,000; however, this note assumes the exact renovation needs and estimate is not available at the time of writing the fiscal note.

Part II

The General Assembly already draws the voting districts and it is assumed no additional costs for Part II.

Part III

The current partisan election candidates are subject to a filing fee of 1% of the annual salary of the office sought by the candidate. This fee is paid to State Board of Elections for statewide offices and judicial offices. The filing fee would range from \$1,400-\$1,500 depending upon the judicial office the candidate is seeking. The number of candidates who would seek these judicial partisan elections is unknown; but it is assumed there would be additional revenues of the change from nonpartisan to partisan. If 10 candidates file to run as an appellate judge, the total filing fees paid would be approximately \$15,000 paid to the State Board.

Part IV

The fiscal impact of Part IV of the act is unknown. Costs to the State may be incurred if cases that would previously have ended after going first to the Court of Appeals and then to the Supreme Court are now required to be heard en banc in the Court of Appeals before going to the Supreme Court. Likewise, cases that previously had rights of appeal directly to the Supreme Court may now have to be heard first in the Court of Appeals. However, there is no way to predict how many times the Court of Appeals may choose to sit en banc or how many cases may have an additional layer of appeal added.

The Administrative Office of the Courts (AOC) reports that “no courtroom at the North Carolina Court of Appeals or at the Supreme Court is equipped to accommodate hearings before a panel of 15 judges. Temporary arrangements likely could be made to house such hearings if they are relatively infrequent, but providing a permanent space for en banc hearings would be necessary if the hearings become frequent and/or routine.” Further, AOC states that “if a case is reheard en banc after consideration by a three-judge panel, additional costs likely will be incurred by the parties and the Court of Appeals relative to the en banc hearing. There may be some workflow disruption for both staff and judges that results from taking the entire court away from hearing cases as part of separate panels in order to hear en banc cases. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.”

Part V

There is no fiscal impact resulting from the changes to the Industrial Commission in S.B. 4.

SOURCES OF DATA: NC State Board of Elections, State Ethics Commission, and Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

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