

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 87 (First Edition)

SHORT TITLE: Sunshine Amendment.

SPONSOR(S): Representatives T. Moore and LaRoque

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES					
EXPENDITURES					
- State Board of Elections			up to \$450,000 but see Assumptions and Methodology		
- Secretary of State		\$300			
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State Board of Elections, Secretary of State, County Boards of Elections					
EFFECTIVE DATE: When the bill becomes law					

BILL SUMMARY:

Subject to approval by the voters at the statewide election on November 6, 2012, this bill adds a new Section 6 to Article XIV of the North Carolina Constitution.

The new section provides that every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, unless exempted pursuant to the proposed Sub-section 3 of Section 1. The constitutional amendment specifically includes the legislative, executive, and judicial branches of the government, and each agency or department created under those branches; local governments, their units and special districts; and every office, board, commission, or entity created pursuant to law or the NC Constitution.

The amendment requires that all meetings of any collegial public body of the executive branch of state government or of local government or special district at which official acts are to be taken or at which public business is to be transacted or discussed, must be open and noticed to the public, unless exempted pursuant to the proposed Sub-section 3 of Section 1. The amendment also provides that meetings of either chamber of the General Assembly must be open and noticed to the public, unless exempted.

Sub-section 3 of Section 1 states that the section is self-executing; however, the General Assembly may provide by general law, exemptions of records from the requirements. This sub-section further requires the General Assembly to enact laws governing enforcement of the proposed section. Each chamber of the General Assembly is allowed to adopt rules governing the enforcement in relation to records of that particular chamber and provides further guidelines for exemptions.

Subject to approval by the voters at the November 2012 general election, Sub-section 4 of Section 1 states that any law or rule of court in effect on January 1, 2013, that limit public access to records or meetings, will remain in force until amended or repealed.

ASSUMPTIONS AND METHODOLOGY:

The analysis provided only considers the cost of placing an amendment on the ballot for the November 2012 general election as required by Sections 2 and 3 of the bill. The State and local fiscal impact of Sections 1, should the amendment pass, cannot be determined.

State Board of Elections

The State Board of Elections provided an estimate of the fiscal impact of submitting the proposed State Constitutional amendment to the qualified voters of the State at the November 2012 general election

Under G.S. 163-33(8), the State Board of Elections is required to reimburse the county boards of elections for their reasonable additional costs in placing required notices, advertisements, and publications for amendments to the State Constitution. County boards of elections must give notice at least 20 days before the date on which the registration books or records are closed that there will be a general election. The notice must include the following information for that election:

- Date
- Hours the voting places will be open for voting
- A description of the nature and type of election
- The issues, if any, to be submitted to the voters

According to the State Board of Elections, county boards of elections would only incur additional advertising expense if the General Assembly enacts the legislation placing the item on the ballot after the county board of elections would ordinarily provide the required notice. Given that the proposed constitutional amendment would not be placed on the ballot until November 2012, action

on this legislation is likely to occur before the county boards of elections would ordinarily provide the required notices for the November 2012 general election.

The State Board of Elections estimates that reimbursing counties for the cost to run a public notice three times in a newspaper for all one hundred counties would be up to \$450,000, if the counties are notified of the constitutional amendment after they would ordinarily provide the required notice *and* subsequently requested reimbursement. Staff consulted two newspapers and found that while this estimate may be high, it can be considered reasonable. The State Board of Elections indicates, however, that no counties have requested reimbursement for reasonable additional costs for placing required notices for the most recent constitutional amendment that was placed on the November 2, 2010 general election.

Secretary of State

G.S. 147-54.10 requires the Constitutional Amendments Publications Commission, of which the Secretary of State is the Chairman, to prepare an explanation of any proposed amendment, revision, or new Constitution. The Commission must send a copy of the summary along with a news release to each county board of elections and make a copy available to any registered voter or representative of the media. The Department of the Secretary of State (SOS) estimates a cost of \$300 in FY 2011-12 for postage and supplies to mail approximately 600 notifications and news releases to the media and county boards of elections explaining the proposed amendment. SOS has determined that additional staff time needed can be absorbed by current staff. Fiscal Research concurs with this estimate.

SOURCES OF DATA: State Board of Elections, Secretary of State, News and Observer (advertisement costs), Charlotte Observer (advertisement costs).

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

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