NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1289 (House Finance Committee Substitute 2)

SHORT TITLE: Set Regulatory Fees/Expand Ins. Reg. Fee

SPONSOR (S): Rep. Luebke

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Utilities Special Fund	$8.7	($0.36 million increase over FY 1998-99)			
(Regulatory Fee Revenue = $8.5)					
(NC EMC Fee = $0.2)					
Insurance Regulatory Fund	$21.7	($2.5 million increase over 1998)			
Department of Agriculture		* See Assumptions and Methodology *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Insurance, N.C. Utilities Commission/Public Staff, and N.C. Department of Agriculture.

EFFECTIVE DATE: Section 1 becomes effective July 1, 1999. The remainder becomes effective when it becomes law.

BILL SUMMARY: Each year the General Assembly must set the regulatory fees for the insurance industry and public utilities. The bill sets the public utility regulator fee at nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues. It also sets a flat fee of $200,000 to be assessed on the North Carolina Electric Membership Corporation. This funding is to cover the costs associated with the Commission's new oversight responsibilities as outlined in H.B. 486. The bill also sets the insurance regulatory fee at 6.5 percent of a company's premiums tax liability. The bill applies the insurance regulatory fee to Health Maintenance Organizations (HMO). The rate for HMOs is based on a "presumed premiums tax liability". This presumed liability is calculated on what these companies would have paid in premiums tax if they were liable for such a tax (the HMOs do not pay a premiums tax). The bill applies the fee to a presumed premiums tax liability of 1.9% of the company's premium base. The bill also presumes an Article 65 corporate tax liability of 1.9% of their premium base. (Their actual premiums tax rate is 0.5%). The HMO payment is due on March

15th of each year for the previous year's tax. All other companies remit the fee when they pay the premiums tax.

ASSUMPTIONS AND METHODOLOGY: The bill sets three fees - the public utilities regulatory fee, the electric membership corporation regulatory fee, and the insurance regulatory fee. The bill also authorizes the Department of Agriculture to charge fees that exceed the direct costs associated with an event. Currently the Department's fees for participation in fairs, festivals, and farmers markets can reflect only the direct cost of that involvement.

Public Utilities Regulatory Fee: The legislation sets the utilities regulatory fee at 0.09% of each public utilities' North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1999. (This maintains the current 0.09% rate set in fiscal year 1998-99.) The revenue generated from this fee supports the operations of the North Carolina Utilities Commission and Public Staff.

G.S. 62-302(b)(2) states that the percentage rate established by the General Assembly and assessed by the Commission "may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund." The Utilities Commission estimates that combined operations of the Commission and the Public Staff in FY 1999-2000 will require expenditures of not less than $10,244,533. Revenues generated by the proposed utilities regulatory fee are estimated to be $8,500,000. The balance will be derived from other revenues generated by Commission fees and charges, or from the Accumulated Fee Margin Reserve Account.

The Utilities Commission indicates that the status of the Accumulated Fee Margin Reserve is as follows:

Balance as of 6/30/99	$ 7,414,519
Add: Estimated Collections and Interest for FY 1999-2000 using 0.09%	$ 9,400,000
Total Funds Available	$16,814,519
Less: Estimated FY 1999-2000 Expenditures Reimbursable from Fees	$(10,244,553)*
Estimated Margin Reserve for Period Ending 6/30/2000	$ 6,569,966

** The Utilities Commission indicates that potential costs incurred by the Legislative Study Commission on the Future of Electric Service in North Carolina are not included in FY 1999-2000 estimated expenditures. That cost, if any, is not estimated at this time. House Bill 777 and Senate Bill 26, both introduced this session, extend the authorization of study commission expenses from the reserve fund through FY 1999-2000. Both bills have been referred to their respective chambers' appropriations committees for consideration.*

Based on the projected Fee Margin Reserve, the fee of 0.09% should be sufficient to cover the operations of the Utilities Commission and Public Staff.

North Carolina Electric Membership Corporation (EMC) Regulatory Fee: House Bill 1289 PCS also establishes a regulatory fee to be paid by the North Carolina EMC totaling $200,000. This fee relates back to House Bill 476, which authorizes electric membership corporations to form subsidiary corporations to provide additional services beyond traditional electric services. House Bill 476 charges the Utilities Commission with regulating these new subsidiaries. The North Carolina EMC will now be required to remit an annual fee to the Utilities Special Fund to pay for the cost of this regulation. The Utilities Commission estimates that $200,000 will be sufficient to cover these anticipated costs in FY 1999-2000.

Insurance Regulatory Fee: This portion of the bill changes the existing law in three ways. First, the bill sets the insurance regulatory charge effective for calendar year 1999 at 6.5%. (This is an increase of 0.5% over the previous year). The charge is based on a percentage of a company's premiums tax liability for the taxable year. Every insurance company subject to the premiums tax levied under G.S. 105-228.5 is required to pay the insurance regulatory charge.

Companies that do not pay the premiums tax calculate what their premiums tax liability would be if they were liable for the tax. This is called the "presumed premiums tax". This presumed premiums tax is used to determine the regulatory fee liability.

G.S. 58-6-25(b) states that the percentage rate, set annually, cannot exceed the rate necessary to generate funds sufficient to defray the estimated cost of operating the Department of Insurance for the upcoming year including a reasonable margin for a reserve fund. The reserve fund should not exceed one-third of the estimated operating cost**.** The revenue collected from the charge is deposited into the Insurance Regulatory Fund invested with the State Treasurer and managed by the Office of State Budget and Management. Funds generated by the regulatory charge are used to reimburse the General Fund for the amount appropriated to the Department of Insurance.

The historic base against which the fee is charged, and the associated rate, is listed below.

	1997-98	1998-99
Estimated Gross Premiums Tax	$268 million	$281 million
Regulatory Rate	0.0875	0.06
Total Revenue	$23.45 million	$16.86 million

The historic base excludes Health Maintenance Organizations, and includes Article 65 companies (Blue Cross/Blue Shield and Delta Dental) at a reduced rate.

If the fee were levied only on companies in the existing base, and at the existing presumed premiums tax rate, the revenue for 1999-00 would be as follows:

	1999-00
Estimated Gross Premiums Tax	$295.05 million
Regulatory Rate	0.065
Total Revenue	$19.18 million

The bill also adds HMOs to the list of companies that are charged a regulatory fee. The Department of Insurance estimates that the HMOs will add approximately $34.2 million to the base against which the regulatory fee is charged. This is based on their presumed premiums tax liability. Applying the 6.5% regulatory fee to the $34.2 million creates an additional $2.2 million in regulatory fee revenue.

Finally, the bill increases the base associated with Blue Cross/Blue Shield and Delta Dental. These are Article 65 companies. Both of these companies pay premiums taxes at a reduced rate. While all other insurance companies with a premiums tax liability pay at the rate of 1.9%, these companies pay at a reduced 0.5% rate. The regulatory fee is charged on their reduced premiums tax amount. The bill increases the presumed rate for these companies to 1.9%. The Department of Insurance estimates that this will add $4.1 million to the base against which the regulatory fee is charged. As a result, this portion of the bill increases revenue by $286,450.

When totaled, the three changes to the insurance regulatory fee statutes create $21.7 million in revenue. However the Department estimates that $3.3 million in refunds will be made to companies that overpaid their surcharge in previous years. Thus, the net collections will be $18.4 million. The Department estimates that the operating expenditures for 1999-2000 will be approximately $21 million and that the reserve fund will have a beginning balance of $8.7 million. The total available from the reserve fund ($8.7 million) and the estimated net collections ($18.4 million) will be $27.1 million. The total available, less the estimated operating expenditures of $21 million, will leave a year-end reserve balance of $6.1 million, which is slightly less than one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 6.5% assessed against companies in the existing base, HMOs, and Article 65 companies is sufficient to defray the estimated cost of the operations of the Department including a reasonable reserve fund.

Agricultural Fees: Under current law the Department of Agriculture can charge fees for participation in fairs, festivals and farmers markets. Under current law the fee can only reflect the marginally cost associated with a particular participant or vendor. They can not use the fees to address the fixed costs of these events. This includes ongoing maintenance and repairs. This portion of the bill would allow the Department to increase their fees to include more than just the marginal costs. The Department has not established a new proposed fee schedule, and can not estimate how much additional revenue they hope to receive as a result of the bill. As a result, no fiscal estimate is possible on this portion of the bill.

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