

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: Senate Bill 1317 (Second Edition)

SHORT TITLE: Bd. of Law Examiners/Fees/Atty. Solicitation.

SPONSOR(S): Senator Rand

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
REVENUES					
NC Public Campaign Financing Fund	\$514,850	\$572,050	\$572,050	\$572,050	\$572,050
General Fund SBI	(\$30,000)				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; State Bureau of Investigation; Board of Law Examiners					
EFFECTIVE DATE: Section 1 (privilege tax) becomes effective July 1, 2004, and applies to taxes due on or after that date. Section 2 (record check) is effective when the act becomes law. Section 3 (attorney solicitation) becomes effective October 1, 2004, and applies to written communications made on or after that date.					

BILL SUMMARY: Section one of the bill doubles the attorney privilege license tax from \$50 to \$100 and dedicates the additional \$50 to the Public Campaign Financing Fund. Section two postpones until July 1, 2004 the effective date of a fee for criminal background checks for lawyers paid by the State Board of Law Examiners to the State Bureau of Investigation. The bill's third section deals with lawyer solicitation of business.

ASSUMPTIONS AND METHODOLOGY:

Privilege Tax on Attorneys

Section 1 of the bill changes an attorney's voluntary contribution of \$50 to the Public Campaign Financing Fund into a mandatory contribution beginning July 1, 2004. In 2003, 996 attorneys contributed a total of \$49,446 to this Fund. Under this bill, the 11,441 attorneys that paid the existing \$50 privilege tax in FY 2002-03 will pay the additional \$50 for a total payment to the Public Campaign Financing Fund of \$572,050 each year. Those paying the attorney privilege tax represent only 58% of the 19,790 dues paying members of the North Carolina State Bar as of January 1, 2004.

Since the bill has an effective date that applies to taxes due on or after July 1, 2004, this analysis assumes that the increased fee will start July 1, 2005. This assumption is made because the current \$50 professional privilege license fee is due by July 1 each year and the current year fees have already been collected. Experience suggest that 90% of the new \$50 fee will be collected in May and June 2005 for fiscal year 2004-05 and the 10% balance will arrive in July 2005 in FY 2005-06. This would put \$514,850 in FY 04-05 and \$57,200 in FY 2005-06. This pattern will continue in future years. Since the number of attorneys paying the privilege tax is not the same as the number of attorneys liable for the tax, there is no basis for estimating the growth in fee revenue over the next five years. In fact from 2002 to 2003, the number of attorneys paying their privilege tax declined from 11,525 to 11,441.

SBI Nonpayment

The State Bureau of Investigation (SBI) conducts criminal background checks for a variety of organizations. It charges a standard fee of \$38 for a state and national background check, of which \$22 is remitted to the Federal Bureau of Investigation. The SBI retains \$16 per check to cover its costs – the receipts collected are used to pay the salaries of the personnel who conduct the background checks. Prior to 2002, the State waived the State portion of the fee (\$16) for prospective attorneys. In the 2002 Budget, the General Assembly eliminated that fee waiver. At the same time, the General Assembly took a recurring reduction of \$14,000 to the SBI's General Fund budget to offset projected receipts. There has been a total reduction of \$28,000 to the SBI over the last two years.

Section 2 of the bill requires the SBI to refund or forgive unpaid bills to the Board of Law Examiners for background checks conducted on prospective attorneys between October 2002 and July 1, 2004. Between October 2002 and April 1, 2004, the Board of Law Examiners submitted 1,745 requests for background checks. In April 2004, the SBI invoiced the Board \$24,430 for these checks; the Board has not paid this sum. In May 2004, the SBI invoiced the Board \$1,788 for checks conducted in April 2004; the Board paid this bill. At this time, the status of the May and June invoices is unknown. Under this Bill, the Board's outstanding balance of \$24,430 for background checks prior to April 1 would be forgiven, and invoiced amounts due or received after that date (prior to July 1) would be refunded or forgiven. Assuming that May and June amounts were similar to April 2004, overall there would be a net loss to the SBI of approximately \$30,000.

SOURCES OF DATA: Department of Revenue; State Bureau of Investigation; North Carolina State Bar

TECHNICAL CONSIDERATIONS: None

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DATE: July 8, 2004

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