

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2009**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 563 (Third Edition)

**SHORT TITLE:** Pyrotechnics Safety Permitting Act.

**SPONSOR(S):** Senator Davis

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<u><b>FY 2009-10</b></u>	<u><b>FY 2010-11</b></u>	<u><b>FY 2011-12</b></u>	<u><b>FY 2012-13</b></u>	<u><b>FY 2013-14</b></u>
<b>GENERAL FUND</b>					
<b>REVENUE</b>					
<b>Dept. Receipts</b>	<b>\$25,000</b>	<b>\$25,000</b>	<b>\$40,000</b>	<b>\$40,000</b>	<b>\$40,000</b>
<b>Ins. Reg. Fund</b>	<b>\$116,787</b>	<b>\$117,939</b>	<b>\$110,288</b>	<b>\$117,080</b>	<b>\$123,988</b>
<b>EXPENDITURES</b>	<b>\$141,787</b>	<b>\$143,517</b>	<b>\$150,288</b>	<b>\$157,080</b>	<b>\$163,989</b>
<b>INS. REG. FUND</b>					
<b>EXPENDITURES:</b>	<b>\$116,787</b>	<b>\$117,939</b>	<b>\$110,288</b>	<b>\$117,080</b>	<b>\$123,988</b>
<b>POSITIONS</b>					
<b>(cumulative):</b>	<b>1.75</b>	<b>1.75</b>	<b>1.75</b>	<b>1.75</b>	<b>1.75</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Insurance					
<b>EFFECTIVE DATE:</b> This act becomes effective July 1, 2010, and applies to offenses committed on or after that date.					

**BILL SUMMARY:**

Senate Bill 563 would require that, when pyrotechnics are used at concerts and public displays, they are used under the supervision of a display operator who has a permit issued by the State Fire Marshal. It requires that individuals supervised by a display operator receive training developed by the State Fire Marshal. It also sets minimum insurance requirements that are verified at the local level.

**Section 1.** The proposed legislation amends G.S. 14-410 to provide that pyrotechnics may be exhibited, used, handled, or discharged in connection with an approved concert or public display only if all those acts are done under the personal supervision of a "display operator" who has a permit from the State Fire Marshal. Individuals supervised by the display operator would be required to obtain training or be a current active member in good standing with any local fire or rescue department with experience in pyrotechnics or explosives. The county commissioners or city council would still have to authorize the specific exhibition.

**Section 2.** The proposed legislation amends G.S. 14-413 by adding a new subsection that states that a board of county commissioners or the governing board of a city shall not issue a permit unless the display operator provides proof of insurance in the amount of a least \$500,000 or the minimum amount required under North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. The city or county may set a greater insurance requirement.

**Section 3.** The proposed legislation adds a new Article 82A in Chapter 58 (Insurance) requiring the State Fire Marshal to set minimum training requirements for individuals who will be supervised by a display operator and testing standards for display operators. It also authorizes the Commissioner to set a fee not to exceed \$100 for a permit. Section 5 of the bill provides that the Commissioner of Insurance shall not charge a fee for display operator permits issued prior to July 1, 2011.

The proposed legislation also provides guidelines for the issuance of display operator permits by the State Fire Marshal. It provides that the permittee must be 21, must have assisted with authorized displays at least 3 times, must have completed minimum training, must have passed an approved examination, and must have paid a fee. There is a reciprocity provision allowing the State Fire Marshal to issue a permit based on the applicant holding a permit in another state. The permit would be valid for 2 years. The Fire Marshal could deny or revoke a permit for certain violations.

**Section 4.** The proposed legislation states that the Commissioner of Insurance must report to the General Assembly by May 1, 2010, on the implementation of this act and may make recommendations regarding statutory changes and the need for additional personnel or other resources to implement the act.

#### **ASSUMPTIONS AND METHODOLOGY:**

##### ***Expenses***

According to the Department of Insurance (DOI), the implementation of the proposed legislation will equate to \$141,787 in total recurring expenses in FY 2009-10. This total includes \$109,787 for 1.75 additional positions and \$32,000 for various operating expenses.

In terms of the additional positions, the Department estimates that it will need an additional engineering position (1.0 FTE) at a total recurring cost of \$77,172 and an additional Program Assistant IV (0.75 FTE), a part-time administrative position, at a total recurring cost of \$32,615. The total cost for the engineering position includes \$62,523 for salary; \$4,783 for Social Security at 7.65%; \$5,340 for Retirement at 8.54%; and \$4,527 for Medical. The total cost for the Program Assistant IV includes \$24,174 for salary; \$1,849 for Social Security at 7.65%; \$2,065 for Retirement at 8.54%; and \$4,527 for Medical. The Department of Insurance stated that engineering positions are banded; therefore, the Department's estimate assumes the Journey market rate. For the Program Assistant IV position, the Department is estimating the salary to be the midpoint of a grade 59 position.

In terms of the various operating expenses, the Department of Insurance also estimates that it will need approximately \$12,000 for programming costs for certification tracking, test bank database, and accounting; approximately \$1,000 for certificates, such as paper, seals, or permits; approximately \$2,000 for notifications and publications including safety and notification of new law; approximately \$4,000 for travel accommodations for committee members to create test questions; approximately \$1,000 for travel expenses associated with audits, education, and training activities; and approximately \$2,000 for mailing, phones, and administrative expenses. This equates to a total of \$32,000 in recurring expenses.

In FY 2010-11, the total recurring expenses associated with the implementation of the proposed legislation will equate to \$143,517. This total includes \$110,938 for 1.75 additional positions and \$32,579, accounting for inflation, for various operating expenses. The increase in the total for additional positions compared to FY 2009-10 accounts for the benefits for Retirement increasing from 8.54% to 8.94% and benefits for Medical increasing from \$4,527 to \$4,929.

Accounting for inflation, the total expenses for salaries would increase to \$117,106 in FY 2011-12; \$123,325 in FY 2012-13; and \$129,639 in FY 2013-14. Accounting for inflation, the total for various operating expenses would increase to \$33,182 in FY 2011-12; \$33,756 in FY 2012-13; and \$34,350 in FY 2013-14. Therefore, the total recurring expenses associated with the implementation of the proposed legislation will equate to \$150,288 in FY 2011-12; \$157,080 in FY 2012-13; and \$163,989 in FY 2013-14.

### ***Revenue***

The Department of Insurance anticipates that the first two years of the program will result in approximately 250 permits at \$100 each for a total of \$25,000 in receipts. By the third year, the Department anticipates that the program will result in 400 permits at \$100 each for a total of \$40,000 in receipts.

Under current law, the Department of Insurance receives a General Fund appropriation for the cost to operate the Department, including the Office of the State Fire Marshall. The Insurance Regulatory Fund (IRF) reimburses the General Fund for any amount appropriated to the Department. The reimbursement goes into the General Fund as nontax revenue. The fees to be generated from the proposed legislation will go into the Department's budget as a receipt to offset the estimated expenditures. Thus the Department would need a General Fund appropriation of \$116,787 in FY 2009-10; \$117,938 in FY 2010-11; \$110,288 in FY 2011-12; \$117,080 in FY 2012-13; and \$123,988 in FY 2013-14. These amounts would be an expenditure of the Insurance Regulatory Fund and would be nontax revenue to the General Fund, such that the net impact on the General Fund is \$0.

**SOURCES OF DATA:** Department of Insurance

**TECHNICAL CONSIDERATIONS:** None

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