GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 1015 (Third Edition)

SHORT TITLE: Economic Devpt. & Finance Changes.

SPONSOR(S): Representatives Howard and Starnes

FISCAL IMPACT ($ In Millions)

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2012-13	**FY 2013-14**	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**
REVENUES:					
General Fund		($0.06)			
Insurance Regulatory Fund	$29.98				
Utilities Comm/ Public Staff Special Fund	$14.20				
Local Government		($0.02)			
EXPENDITURES:					
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Dept. of Rev.; Utility Commission; NC Dept. of Commerce, JDIG Program;

EFFECTIVE DATE: Various effective dates.

BILL SUMMARY: The Proposed Committee Substitute for House Bill 1015 would make the following changes related to economic development and various finance laws:

- Sets the rates for the public utility regulatory fees and the insurance regulatory charge for FY 2012-13.
- Removes the cap on the number of grants, which is currently 25, that may be awarded in a calendar year under the Job Development Investment Grant (JDIG) program.
- Permits the use of Industrial Development Fund moneys for sewer infrastructure projects in adjoining counties.
- Broadens the 20-year carryforward period under Article 3J by lowering the investment threshold from $150 million to $100 million to the extent an eligible company makes the investment in a tier one county. Under Article 3J, installments of tax credits not used in a given

year can be carried-forward and used in subsequent years, so this provision extends the period that companies investing between $100 million and $150 million have to use credits generated.

- Makes a technical correction to the definition of a port enhancement zone.
- Provides a sales and use tax refund for port facility machinery purchases made on or after July 1, 2012, but before July 1, 2013.

ASSUMPTIONS AND METHODOLOGY:

Section 1.(a): Public Utility Regulatory Fee

The Utilities Commission charges the public utility regulatory fee to 2,057 certificated companies with North Carolina jurisdictional revenues. Using past revenues as an estimate, it is assumed that these companies will have revenues of approximately $11.6 billion in FY 2012-13. Thus, a 0.12% regulatory fee would yield $14 million. These funds are deposited into a Special Fund at Commerce and then distributed to the Utility Commission and the Public Staff to fund their operations. The following table provides a 5-year history of NC utility jurisdictional revenues as well as fee revenues; the rate was 0.12% for all years shown:

History of North Carolina Utility and Fee Revenues at a 0.12% Rate, FY 2006-07 thru FY 2010-11					
	FY 2006-07	**FY 2007-08**	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**
Utility Revenues	$11,026,252,488	$11,394,049,568	$11,321,344,624	$11,548,577,717	$11,671,551,467
Fee Revenue	$13,360,713	$13,782,929	$13,964,181	$13,721,517	$14,005,862

Section 1.(b): Electric Membership Corporation Regulatory Fee

The electric membership corporation fee is a flat fee and thus anticipated revenue is equal to the fee - $200,000.

Section 1.(c): Insurance Regulatory Charge

The insurance regulatory charge is an annual charge applied to each insurance company's annual premium tax liability for the taxable year. Monies are credited to the Insurance Regulatory Fund, and are used to reimburse the General Fund for the following:

(1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry and other industries in this State.

(2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.

(3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.

(4) Money appropriated for the office of Managed Care Patient Assistance Program established under G.S. 143-730 to pay the actual costs of administering the program.

(5) Money appropriated to the Department of Insurance for the implementation and administration of independent external review procedures required by Part 4 of Article 50 of this Chapter.

(6) Money appropriated to the Department of Justice to pay its expenses incurred in representing the Department of Insurance in its regulation of the insurance industry and other related programs and industries in this State that fall under the jurisdiction of the Department of Insurance.

(7) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with providing staff support for State boards and commissions, including the North Carolina Manufactured Housing Board, State Fire and Rescue Commission, North Carolina Building Code Council, North Carolina Code Officials Qualification Board, Public Officers and Employees Liability Insurance Commission, North Carolina Home Inspector Licensure Board, and the Volunteer Safety Workers' Compensation Board.

(8) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with continuing education programs under Article 33 of this Chapter and in connection with the purchase and sale of copies of the North Carolina State Building Code.

(9) Money appropriated to the Department of Insurance for the regulation of the professional employer organization industry pursuant to Article 89A of Chapter 58 of the General Statutes.

Unexpended monies remain in the Insurance Regulatory Fund.

For taxable years 2010 and 2011, the surcharge was also 6.0 percent. These monies were collected in fiscal years 2010-11 and 2011-12. The Department of Insurance anticipates an increase of 0.0025 percent in premium tax liability and surcharge revenues for FY 2012-13 compared to FY 2011-12. Actual and anticipated collections are as follows:

Department of Insurance, Insurance Regulatory Fund Revenues, FY 20110-11 thru FY 2012-13		
FY 2010-11 Actual	**FY 2011-12 Estimated**	**FY 2012-13 Anticipated**
$29,877,292	$29,909,412	$29,984,412

Section 2: Remove Cap on the Number of Annual JDIG Grants

This section removes the cap on the number of Job Development Investment Grant (JDIG) projects that may be awarded in a calendar year. There is no change to the annual liability (remains at $15 million). Thus, there is not an anticipated fiscal impact from removing the cap on the number of projects.

Section 3: Industrial Development Fund Changes

Section 3 of the bill allows for the Industrial Development Fund (IDF) to fund sewer infrastructure projects in any county as long as the site that the sewer infrastructure is servicing is in an eligible county. This part of the bill is not estimated to have a fiscal impact as it is not known which projects would have applied before this change versus after this change. IDF is currently funded by loan repayments only; there is no longer a General Fund appropriation for IDF. Loan repayments average around $50,000 annually. As of May 25, 2012, IDF had a cash balance of $1,102,793.

Section 4: Broaden the 20-Year Carry Forward Provisions under Article 3J

Under Article 3J, installments of tax credits not used in a given year can be carried-forward and used in subsequent years, so this provision extends the period that companies investing between $100 million and $150 million have to use credits generated. Reducing the threshold required to qualify for 20-year carry-forward period from $150,000,000 to $100,000,000 in Tier 1 counties would create significant, but unknowable, future revenue liabilities for the State. However, because credits generated under Article 3J can be carried-forward for five years under existing law, extending the carry-forward period will not have a fiscal impact until year six.

Based on information provided by the Department of Commerce on one potential project that would invest $100,000,000 and hire 350 employees in a Tier 1 county, extending the carry-forward period would decrease State revenues by approximately $2,400,000 over the lifetime of the credits. Beyond this one project, it is difficult to accurately predict how many projects in the future would qualify for an extended carry-forward period, and thus what the full fiscal impact of extending the carry-forward period would ultimately be.

Section 5: Port Enhancement Zone Technical Correction

This section has no fiscal impact.

Section 6: Sales Tax Refund for Machinery Purchased at Port Facilities

Section 6 of HB 1015 reduces General Fund availability for one year by $ 58,000 to $64,000 in fiscal year 2013-14. The section provides a sales and use tax refund for the tax paid on specialized machinery used at a port facility to unload or process bulk cargo purchased between July 1, 2012 and June 30, 2013. The tax refund is equivalent to the amount of sales and use tax paid on the machinery, less the tax that would be due on the equipment under Article 5F of Chapter 105.

Certain machinery and equipment receives a State and local sales tax exemption and falls subject to a reduced tax rate under Article 5F, the excise tax on mill machinery. Machinery purchases taxed under Article 5F receive preferential tax treatment—a 1% excise tax applies to the purchase price of qualified machinery. The maximum tax paid is $80 per piece of machinery. The 2011 General Assembly enacted S.L. 2011-301, Various Economic Development Incentives (HB 751), which qualified specialized machinery used at port facilities as equipment that can be purchased under the Article 5F tax rate. This legislation, effective for purchases on or after July 1, 2013, exempted machinery used in the unloading or processing of bulk cargo at a port facility from State and local sales taxes and instead applied the Article 5F excise tax.

SOURCES OF DATA: NC Dept. of Revenue; Department of Insurance; Utilities Commission

TECHNICAL CONSIDERATIONS: None

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