

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 885

SHORT TITLE: Time and Method of Execution

SPONSOR(S): Senator Gulley

FISCAL IMPACT

Yes (x) No () No Estimate Available (x)

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

REVENUES

EXPENDITURES

Judicial and Department of Justice -- No estimate available

Correction – Negligible Cost Savings

POSITIONS: None

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Justice; Judicial Branch; Department of Correction

EFFECTIVE DATE: When bill becomes law.

BILL SUMMARY: S 885. TIME AND METHOD FOR EXECUTION. TO MAKE TECHNICAL AMENDMENTS TO THE LAWS REGARDING THE TIME AND METHOD FOR EXECUTION. Amends GS 15-187 to abolish execution of death sentence by administration of lethal gas, leaving administration of lethal drugs as only authorized form of execution. Requires execution by injection of "a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent." Revises GS 15-194, regarding scheduling execution of criminal defendant sentenced to death, to provide that date for execution must be set not less than 30 days nor more than 45 days from the date of receiving *written* notification *from Attorney General or from district attorney who prosecuted the case* of the events listed in present subsections (1) through (6), including, for example, filing of U.S. Supreme Court opinion upholding the death sentence, and expiration of time for filing petition for certiorari to U.S. Supreme Court. Amends GS 15-194(6) to clarify that after state postconviction proceedings, the defendant sentenced to death has 60 days to file for a writ of habeas corpus in federal district court after denial of certiorari by NC Supreme Court or that court's decision to uphold the death sentence, and that failure to take that action within 60 days is an event that triggers setting execution date. Adds new GS 15-194(b) stating that nothing prohibits superior court from setting execution date under circumstances other than those specified in GS 15-194(a). Adds GS 15A-1415(a1) authorizing superior court of county in which

defendant sentenced to death was indicted to set time limit for filing postconviction motion for appropriate relief.

ASSUMPTIONS AND METHODOLOGY: Department of Justice/ Judicial Branch

The Senate Committee Substitute for House Bill 9 -- Streamline Criminal Appeals – was ratified in the 1996 Short Session. This bill mandated completion of the state post conviction process within a shorter time frame compared to previous practices. SB 885 is intended to make technical corrections to the laws regarding the time and method of execution, which are related to the legal requirements outlined in HB 9 for handling capital cases in the post conviction stage .

Section 2 of SB 885 authorizes superior court judges to set time limitations for filing of a post conviction motion for appropriate relief for cases in which the “death sentence was entered on or before October 1, 1996.” There is potential fiscal impact because this is a new group of cases not anticipated under HB 9, which applied to cases in which the death sentence was entered on or after October 1, 1996.

The fiscal impact cannot be determined because one cannot project how many superior court judges will set a time limitation for these older cases. However, unless the Judicial Branch is willing to increase delays and backlogs in other cases by using current resources to meet the time limitations in SB 885 (and thus limiting need for new resources to pick up this group of cases), SB 885 will have a fiscal impact. Given it is discretionary, many judges may not use the new procedure so costs may not be significant – but cost cannot be accurately projected.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

The DOC does not believe there will be any fiscal impact in changing the time for execution. Changing the method of execution may produce negligible cost savings – it is slightly cheaper to administer death by lethal drugs than by lethal gas. In 1995 a fiscal note was completed for SB 34 which, similarly to SB 885, abolished execution by lethal gas and mandated use of lethal drugs. The fiscal analysis for SB 34 showed a cost per treatment for injection of lethal drugs to be \$346.51 and lethal gas \$371.03. According to DOC these costs have not changed. Also, there would be some savings in preparation time for use of lethal drugs but cost savings were also negligible.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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