

March 20, 2007

S 1130. BROADEN OPEN DISCOVERY. Filed 3/20/07. *CLARIFYING THAT DEFENDANTS MUST HAVE ACCESS TO THE COMPLETE FILES OF ALL LAW ENFORCEMENT AND PROSECUTORIAL AGENCIES IN THE OPEN DISCOVERY PROCESS.*

GS 15A-903(a)(1) requires the state to make available to defendants complete files of all prosecutorial agencies. This bill defines prosecutorial agencies to include any public or private entity that obtains information on behalf of a law enforcement agency or prosecutor. Effective October 1, 2007.

Intro. by Clodfelter.

GS 15A

May 22, 2007

S 1130. OPEN DISCOVERY/GRAND JURY TRANSCRIPTS (NEW). Filed 3/20/07. Senate committee substitute makes the following changes to 1st edition. Amends GS 15A-903(a)(1) to modify the definition of *prosecutorial agency* to provide that the information obtained is in connection with the prosecution of the defendant *or* the investigation of the crimes committed (was, in connection with the prosecution of the defendant). Modifies the title.

July 27, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES (NEW). Filed 3/20/07. House committee substitute makes the following changes to 2nd edition, effective October 1, 2007. Makes technical and clarifying changes to GS 143C-1-1(b) and GS 143C-3-2. Amends GS 143C-3-5(a) to require the Governor to present budget recommendations consistent with GS 143C-3-1 (budget estimate for the legislative branch), GS 143C-3-2 (budget estimate for the judicial branch), and GS 143C-3-3 (budget requests from State agencies in the executive branch). Amends GS 143C-4-6 to provide that to the extent that there is a percent increase in appropriations in a fiscal year for operation of the courts that exceeds the percent increase in state personal income growth, the limitation on the size of the general fund operating budget must be increased by the amount of the excess percentage. Amends GS 143-6-2 to require the Governor to consult with the Chief Justice to identify methods that can be used to reduce expenditures when a deficit is anticipated. Requires the plan the Governor reports to the General Assembly on overcoming the deficit to include measures identified by the Chief Justice and Judicial Branch to reduce expenditures and allows the Governor to recommend changes to the identified reduction measures. Enacts new GS 143C-6-4(i) allowing the Chief Justice of the Supreme Court to approve transfers and expenditures for more than what was authorized in the enacted budget for programs, objects, or line items in the Judicial Branch budget and requires transfers to be reported quarterly to the Joint Legislative Commission on Governmental Operations beginning October 31. Amends GS 143C-6-6(c) to exempt the Judicial Branch from the statute (positions included in the state payroll) concerning proposed new positions or changes in the funding for positions and salary requirements. Amends GS 143C-7-1(a) to require the Judicial Branch to provide the Governor with a copy of its application to the federal government or another party for funds *after* making the application. Amends GS 143C-10-3(a) to limit those that the Governor may suspend from performing their duties to a state officer or employee of the executive branch (was, state officer or employee).

Amends GS 7A-343 to add to the duties of the Director of the Administrative Office of the Courts (AOC) analyzing the use of contract positions in the Judicial Department and after consulting with the Joint Legislative Commission on Governmental Operations, converting those positions to permanent positions when the director determines it is in the Judicial Department's best interest.

Amends GS 7A-794 to remove the requirement that the Director of AOC award grants from the Drug Treatment Court Program Fund and implement local drug treatment court programs. Makes a conforming repeal of GS 7A-798 (drug treatment court grant application; local program director). Amends GS 7A-801 to require AOC to monitor all state recognized and funded local drug treatment courts (was, develop a statewide model and conduct ongoing evaluations of local drug treatment court programs) and prepare an annual report on the program to be submitted to the General Assembly by March 1 of each year.

Authorizes AOC to conduct a pilot program in multiple counties to evaluate a system for the electronic filing, processing, and management of civil cases and special proceedings until June 30, 2009.

Amends GS 7A-49.5 to remove the prohibition against paying the costs of electronic filing hardware and software costs with state funds. Amends GS 7A-177(b) to require training and continuing education courses to be made conveniently available to all magistrates and removes the requirement that courses be provided in Asheville. Amends GS 84-2 to prohibit magistrates from engaging in the private practice of law. Amends GS 7A-312 to allow the 26th Judicial District to operate a pilot program in which a juror may waive the per diem fee and instead designate that the fee be used to provide for specified services. Amends GS 7A-314 to allow the court to authorize the use of an interpreter paid by funds appropriated to the AOC when it is necessary to facilitate a criminal or domestic violence case. Amends GS 7A-321 to allow the Judicial Department to do the following to collect fines, fees, and costs owed by offenders who are not sentenced to supervised probation: (1) assess a collection assistance fee if any amount remains unpaid for 30 days after the time allotted by the court, (2) enter into contracts with a collection agency to collect unpaid fines and fees, and (3) intercept tax refund checks under the setoff Debt Collection Act.

July 31, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES. Filed 3/20/07. House committee substitute makes the following changes to 3rd edition. Deletes amendments to the following statutory provisions relating to the operation and the budget of the judicial branch: GS 143C-3-2, GS 143C-4-6(b), GS 143C-6-2(b), GS 143C-6-4, GS 143C-6-6(c), GS 143C-7-1(a), GS 7A-314(f), and GS 7A-321.

Deletes proposed amendment to GS 143C-3-5(a) [regarding the Governor's budget recommendations to the General Assembly]. Deletes proposed amendments to GS 143C-10-3(a) [providing that the Governor may suspend an employee of the executive branch under specified criteria].

Deletes provision permitting the Administrative Office of the Courts to conduct a pilot project in multiple counties to evaluate a system for electronic filing, case processing, and case management of civil cases and special proceedings. Made conforming changes to other related provisions.

Provides that the tax form instructions for the Earned Income Tax Credit requirements become effective for taxable years beginning on or after January 1, 2008 (was, January 1, 2007).

Effective October 1, 2009, amends GS 105-522(a)(2) and amends GS 105-523(a)(2) as enacted by SL 2007-323, to clarify calculations in the hold harmless amount distributions for municipalities and counties.

Effective July 1, 2007, amends GS 105-164.14(n) to provide that a taxpayer engaged in analytical services in NC is allowed a refund of sales and use tax paid in the state that is the greater of 50% of the eligible amount sales and use tax paid on tangible personal property, consumed or transformed in analytical service activities or 50% of the amount of sales and use tax paid during the fiscal year on medical reagents and supplies.

Amends GS 105-129.95 to expand the definition of *costs of construction* for which a tax credit is allowed to include the costs of constructing and equipping rail tracks to the railroad Intermodal facility that are necessary to access and support facility operations.

Makes other technical and clarifying changes to SL 2007-323 (H1473).

August 1, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES. Filed 3/20/07. House committee substitute makes the following changes to 4th edition. To be summarized in tomorrow's *Daily Bulletin*.

August 2, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES. Filed 3/20/07. House committee substitute adopted 8/1/07 makes the following changes to 4th edition. Makes technical and clarifying changes to GS 143C-1-1(b) and GS 143C-3-2. Amends GS 143C-3-5(a) to require the Governor to present budget recommendations consistent with GS 143C-3-1 (budget estimate for the

legislative branch), GS 143C-3-2 (budget estimate for the judicial branch), and GS 143C-3-3 (budget requests from state agencies in the executive branch).

Amends GS 143C-4-6(b) to provide that to the extent that there is a percent increase in appropriations in a fiscal year for operation of the courts that exceeds the percent increase in state personal income growth, the limitation on the size of the General Fund operating budget must be increased by the amount of the excess percentage. Amends GS 143-6-2(b) to require the Governor to consult with the Chief Justice to identify methods that can be used to reduce expenditures when a deficit is anticipated.

Enacts new GS 143C-6-4(i) allowing the Chief Justice of the Supreme Court to approve transfers and expenditures for more than was authorized in the enacted budget for programs, objects, or line items in the Judicial Branch budget and requires transfers to be reported quarterly to the Joint Legislative Commission on Governmental Operations beginning October 31.

Amends GS 143C-6-6(c) to exempt the Judicial Branch from the statute (positions included in the state payroll) concerning proposed new positions or changes in the funding for positions and salary requirements. Amends GS 143C-7-1(a) to require the Judicial Branch to provide the Governor with a copy of its application to the federal government or another party for funds after making the application. Amends GS 143C-10-3(a) to limit those that the Governor may suspend from performing their duties to a state officer or employee of the executive branch (was, state officer or employee).

Modifies proposed GS 7A-312(b) to provide that the Administrative Office of the Courts may select a judicial district to operate a pilot program in which a juror may waive payment of the per diem fees (was, permitted the 26th Judicial District to operate the pilot program).

Applying only to the period beginning August 1, 2007, and ending September 1, 2007, provides that a retailer is not liable for an over - or undercollection of sales tax if the retailer has (1) made a good faith effort to collect the proper amount of tax and (2) over -- or undercollected the amount of sales tax due to the changes in the tax rate under GS 105-164.4(a) made by SL 2007-323, Section 31.2.

Unless otherwise provided, effective October 1, 2007. Conforms the title.

August 2, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES. Filed 3/20/07. House amendments make the following changes to 5th edition. Amendment #1 amends SL 2007-323 to add a new section, TRANSFER OF REVENUE COLLECTIONS AND EXAMINATIONS DIVISION POSITIONS, requiring the Department of Revenue to move 39 (not the 45 listed in the committee report) positions in the Collections and Examinations Division from General Fund to receipt-supported. Modifies Section 24 to provide that the language amends SL 2007-323, Section 31.2. Amendment #2 changes the effective date of the amendment to GS 7A-177(b) to when the act becomes law (was, October 1, 2007), and of changes to GS 84-2 to December 1, 2007 (was, October 1, 2007).

August 2, 2007

S 1130. OPEN DISCOVERY/AOC CHANGES. Filed 3/20/07. Conference report recommends the following changes to 5th edition as amended to reconcile matters in controversy. Removes the amendments that required the Department of Revenue to move 39 (was, 45) positions in the Collections and Examinations Division from General Fund to receipt-supported and changing the effective date of the amendment to GS 7A-177(b) to when the act becomes law (was, October 1, 2007), and of GS 84-2 to December 1, 2007 (was, October 1, 2007). Deletes proposed GS 143C-6-4(i) which authorized the Chief Justice of the Supreme Court to approve transfers and expenditures. Deletes the proposed amendment to GS 143C-6-6(c). Deletes the proposed change to GS 84-2, which prohibited magistrates from engaging in the private practice of law. Also deletes the following changes to the budget act: (1) proposed amendments to SL 2007-323, Section 24.3(c); (2) proposed amendments to GS 105-522(a)(2), and GS 105-523(a)(2); (3) proposed changes to GS 105-538; (4) proposed changes to GS 105-164.14(n); (5) proposed changes to GS 105-129.95; (6) the repeal of Section 24.4 of SL 2007-323; (7) the prohibition of the transfer of funds from the Department of Revenue to the Department of Administration for the

support of positions; (8) the provision giving full force and effect to actions taken by the Administrative Hearings Officer at the Department of Revenue from the period beginning July 1, 2007; and (9) concerning retailer liability for an over - or - under collection of sales tax. Makes conforming changes to the effective date and to the title.

August 27, 2007

SL 2007-393 (S 1130). OPEN DISCOVERY/AOC CHANGES. *AN ACT CLARIFYING THAT DEFENDANTS MUST HAVE ACCESS TO THE COMPLETE FILES OF ALL LAW ENFORCEMENT, TO MAKE CHANGES TO THE STATE BUDGET ACT AS IT APPLIES TO THE JUDICIAL BRANCH, TO ADD A NEW DUTY TO THE DIRECTOR'S POWERS AND DUTIES, TO MODIFY OR REPEAL CERTAIN STATUTES RELATED TO DRUG TREATMENT COURTS, TO MAKE CLARIFYING CHANGES FOR CONTINUING TRAINING FOR MAGISTRATES, TO ESTABLISH A PILOT PROGRAM ALLOWING JURORS TO WAIVE PAYMENT OF PER DIEM FEES AND DESIGNATE FEES FOR OTHER SERVICES.*

Summarized in *Daily Bulletin* 3/20/07, 5/22/07, 7/27/07, 7/31/07, 8/1/07, and 8/2/07. Enacted August 20, 2007. Sections 1–14 and 16 are effective October 1, 2007. The remainder is effective August 20, 2007.