

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** December 15, 2005

**SUBJECT:** Resolution Increasing Out-of-State Civil Process Fee

**ATTACHMENTS:** 1) Memorandum from Captain Rick Davis  
2) Draft Resolution

### SUMMARY OF REQUEST:

The Sheriff's Department has requested that the fee charged for the processing of out-of-state civil paper be increased from \$15 to \$60. North Carolina General Statutes grants Boards of Commissioners the authority to take this action. A memorandum from Captain Rick David along with a proposed resolution is attached.

### COUNTY MANAGER'S RECOMMENDATION/ACTION REQUIRED:

Staff recommends the attached resolution be adopted.

## Memorandum

**To:** Justin Hembree, Assistant County Manager

**From:** Captain Rick Davis, Sheriff's Office Support Services Div.

**Date:** 2 December 2005

**Re:** Request for Service Fee Resolution

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As you may know, the Civil Process Division of the Sheriff's Office is permitted, but not required, to serve civil processes issued by states other than North Carolina. General Statutes regulating service fees apply only to North Carolina issued documents, as defined by N.C.G.S. §7A-311.

North Carolina General Statute §153A-102 grant the Board of Commissioners the power to fix fees and commissions charged by county officers and employees for performing services or duties permitted or required by law.

Our office is seeking a resolution to adjust this fee thus reflecting fees charged by most North Carolina counties. The Sheriff's Office currently charges \$15.00 per out of state process. Our recommendation is to set this rate at \$60.00.

I respectfully request to be placed on Board of Commissioner's agenda for 15 December 2005.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

100 North King Street

Hendersonville, North Carolina 28792-5097

Phone: 828-697-4808 • Fax: 828-698-6183

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WILLIAM L. MOYER  
Chairman  
CHARLIE MESSER  
Vice-Chairman

SHANNON BALDWIN  
CHUCK MCGRADY  
LARRY YOUNG

**DRAFT**

**A RESOLUTION FOR HENDERSON COUNTY WITH RESPECT TO THE FEES TO BE CHARGED BY THE SHERIFF FOR SERVICE OF PROCESS ORIGINATING OUTSIDE THE GENERAL COURT OF JUSTICE OR OTHER NORTH CAROLINA COURTS OR AGENCIES**

WHEREAS, North Carolina General Statute, section 153A-102 grants to the Board of Commissioners the power to fix the fees and commissions charged by the county officers and employees for performing services or duties permitted or required by law; and

WHEREAS, the Sheriff and his deputies are permitted, but not required, to serve summons and complaints and other legal process issued by the federal courts and courts of the several states, other than North Carolina; and

WHEREAS, the provisions of North Carolina General Statute Section 7A-311, which set the uniform fees for service of civil process, only apply to process issued by the courts of the State of North Carolina;

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HENDERSON COUNTY: In any civil action or special proceeding arising in the federal courts or in a court of one of the several other states other than the State of North Carolina, the following fees shall be assessed, collected, and remitted to the County of Henderson:

Effective December \_\_\_\_\_, 2005, for each item of civil process, including summons and complaints, subpoenas, notices, motions, orders, and pleadings served, a service fee of SIXTY DOLLARS (\$60.00) shall be assessed. When two or more items of civil process are served simultaneously on one party, only one such service fee shall be charged.

When an item of civil process is served on two or more persons or organizations, a separate charge shall be made for each person or organization.

This resolution shall not apply to any process issued by the North Carolina General Court of Justice or any other court, administrative body, or agency of the State of North Carolina or any of its political subdivisions.

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 2005

**DRAFT**

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