

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 945
Committee Substitute Favorable 6/10/92
Senate Finance Committee Substitute Adopted 6/19/92

Short Title: Court Costs/Fees Changes.

(Public)

Sponsors:

Referred to:

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO ADJUST FEES IN THE GENERAL COURT OF JUSTICE AND THE FACILITIES FEE, TO ALLOW THE PRORATING OF WATER FEES, AND TO ESTABLISH THE PERCENTAGE RATE FOR THE INSURANCE REGULATORY CHARGE AND THE PUBLIC UTILITY REGULATORY FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or **nolo contendere**, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

(1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.

(2) For the use of the courtroom and related judicial facilities, the sum of ~~five dollars (\$5.00)~~ six dollars (\$6.00) in the district court, including cases before a magistrate, and the sum of ~~twenty three dollars (\$23.00)~~

1 twenty-four dollars (\$24.00) in superior court, to be remitted to the
2 county in which the judgment is rendered. In all cases where the
3 judgment is rendered in facilities provided by a municipality, the
4 facilities fee shall be paid to the municipality. Funds derived from the
5 facilities fees shall be used exclusively by the county or municipality
6 for providing, maintaining, and constructing adequate courtroom and
7 related judicial facilities, including: adequate space and furniture for
8 judges, district attorneys, public defenders, magistrates, juries, and
9 other court related personnel; office space, furniture and vaults for the
10 clerk; jail and juvenile detention facilities; free parking for jurors; and
11 a law library (including books) if one has heretofore been established
12 or if the governing body hereafter decides to establish one. In the event
13 the funds derived from the facilities fees exceed what is needed for
14 these purposes, the county or municipality may, with the approval of
15 the Administrative Officer of the Courts as to the amount, use any or
16 all of the excess to retire outstanding indebtedness incurred in the
17 construction of the facilities, or to reimburse the county or
18 municipality for funds expended in constructing or renovating the
19 facilities (without incurring any indebtedness) within a period of two
20 years before or after the date a district court is established in such
21 county, or to supplement the operations of the General Court of Justice
22 in the county.

23 (3) For the retirement and insurance benefits of both State and local
24 government law-enforcement officers, the sum of seven dollars and
25 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
26 cents (50¢) of this sum shall be administered as is provided in Article
27 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
28 five cents (\$5.75) of this sum shall be administered as is provided in
29 Article 12E of Chapter 143 of the General Statutes, with one dollar and
30 twenty-five cents (\$1.25) being administered in accordance with the
31 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
32 be administered as is provided in Article 12F of Chapter 143 of the
33 General Statutes.

34 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
35 five cents (75¢), to be remitted to the Department of Justice and
36 administered under the provisions of Article 12G of Chapter 143 of the
37 General Statutes.

38 (4) For support of the General Court of Justice, the sum of ~~thirty-seven~~
39 ~~dollars (\$37.00)~~ forty-one dollars (\$41.00) in the district court,
40 including cases before a magistrate, and the sum of ~~forty-four dollars~~
41 ~~(\$44.00)~~ forty-eight dollars (\$48.00) in the superior court, to be
42 remitted to the State Treasurer.

43 (5) For using pretrial release services, the district or superior court judge
44 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be

1 remitted to the county providing the pretrial release services. This cost
2 shall be assessed and collected only if the defendant had been accepted
3 and released to the supervision of the agency providing the pretrial
4 release services."

5 Sec. 2. G.S. 7A-305(a) reads as rewritten:

6 "(a) In every civil action in the superior or district court the following costs shall
7 be assessed:

8 (1) For the use of the courtroom and related judicial facilities, the sum of
9 ~~five dollars (\$5.00)~~ six dollars (\$6.00) in cases heard before a
10 magistrate, and the sum of ~~nine dollars (\$9.00)~~ ten dollars (\$10.00) in
11 district and superior court, to be remitted to the county in which the
12 judgment is rendered, except that in all cases in which the judgment is
13 rendered in facilities provided by a municipality, the facilities fee shall
14 be paid to the municipality. Funds derived from the facilities fees shall
15 be used in the same manner, for the same purposes, and subject to the
16 same restrictions, as facilities fees assessed in criminal actions.

17 (2) For support of the General Court of Justice, the sum of ~~fifty-one dollars~~
18 ~~(\$51.00)~~ fifty-five dollars (\$55.00) in the superior court, and the sum of
19 ~~thirty-six dollars (\$36.00)~~ forty dollars (\$40.00) in the district court
20 except that if the case is assigned to a magistrate the sum shall be
21 ~~twenty-four dollars (\$24.00)~~ twenty-eight dollars (\$28.00). Sums
22 collected under this subsection shall be remitted to the State
23 Treasurer."

24 Sec. 3. G.S. 7A-306 reads as rewritten:

25 "**§ 7A-306. Costs in special proceedings.**

26 (a) In every special proceeding in the superior court, the following costs shall be
27 assessed:

28 (1) For the use of the courtroom and related judicial facilities, the sum of
29 ~~three dollars (\$3.00)~~ four dollars (\$4.00) to be remitted to the county.
30 Funds derived from the facilities fees shall be used in the same
31 manner, for the same purposes, and subject to the same restrictions, as
32 facilities fees assessed in criminal actions.

33 (2) For support of the General Court of Justice the sum of ~~twenty-two~~
34 ~~dollars (\$22.00)~~ twenty-six dollars (\$26.00). In addition, in proceedings
35 involving land, except boundary disputes, if the fair market value of
36 the land involved is over one hundred dollars (\$100.00), there shall be
37 an additional sum of thirty cents (30¢) per one hundred dollars
38 (\$100.00) of value, or major fraction thereof, not to exceed a
39 maximum additional sum of two hundred dollars (\$200.00). Fair
40 market value is determined by the sale price if there is a sale, the
41 appraiser's valuation if there is no sale, or the appraised value from the
42 property tax records if there is neither a sale nor an appraiser's
43 valuation. Sums collected under this subsection shall be remitted to the
44 State Treasurer.

1 (b) The facilities fee and ~~twenty-two dollars (\$22.00)~~ twenty-six dollars (\$26.00) of
2 the General Court of Justice fee are payable at the time the proceeding is initiated.

3 (c) The following additional expenses, when incurred, are assessable or
4 recoverable, as the case may be:

5 (1) Witness fees, as provided by law.

6 (2) Counsel fees, as provided by law.

7 (3) Costs on appeal, of the original transcript of testimony, if any, insofar
8 as essential to the appeal.

9 (4) Fees for personal service of civil process, and other sheriff's fees, and
10 for service by publication, as provided by law.

11 (5) Fees of guardians **ad litem**, referees, receivers, commissioners,
12 surveyors, arbitrators, appraisers, and other similar court appointees, as
13 provided by law. The fees of such appointees shall include reasonable
14 reimbursement for stenographic assistance, when necessary.

15 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to
16 the judge or upon transfer to the civil issue docket.

17 (e) Nothing in this section shall affect the liability of the respective parties for
18 costs, as provided by law.

19 (f) This section does not apply to a foreclosure under power of sale in a deed of
20 trust or mortgage."

21 Sec. 4. G.S.7A-307(a) reads as rewritten:

22 "(a) In the administration of the estates of decedents, minors, incompetents, of
23 missing persons, and of trusts under wills and under powers of attorney, and in
24 collections of personal property by affidavit, the following costs shall be assessed:

25 (1) For the use of the courtroom and related judicial facilities, the sum of
26 ~~three dollars (\$3.00)~~, four dollars (\$4.00), to be remitted to the county.
27 Funds derived from the facilities fees shall be used in the same
28 manner, for the same purposes, and subject to the same restrictions, as
29 facilities fees assessed in criminal actions.

30 (2) For support of the General Court of Justice, the sum of ~~twenty-two~~
31 ~~dollars (\$22.00)~~, twenty-six dollars (\$26.00), plus an additional forty
32 cents (40¢) per one hundred dollars (\$100.00), or major fraction
33 thereof, of the gross estate, not to exceed three thousand dollars
34 (\$3,000). Gross estate shall include the fair market value of all
35 personalty when received, and all proceeds from the sale of realty
36 coming into the hands of the fiduciary, but shall not include the value
37 of realty. In collections of personal property by affidavit, the fee based
38 on the gross estate shall be computed from the information in the final
39 affidavit of collection made pursuant to G.S. 28A-25-3 and shall be
40 paid when that affidavit is filed. In all other cases, this fee shall be
41 computed from the information reported in the inventory and shall be
42 paid when the inventory is filed with the clerk. If additional gross
43 estate, including income, comes into the hands of the fiduciary after
44 the filing of the inventory, the fee for such additional value shall be

1 assessed and paid upon the filing of any account or report disclosing
2 such additional value. For each filing the minimum fee shall be ~~five~~
3 ~~dollars (\$5.00)~~ ten dollars (\$10.00). Sums collected under this
4 subsection shall be remitted to the State Treasurer.

5 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
6 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
7 gross estate, not to exceed three thousand dollars (\$3,000), shall not be
8 assessed on personalty received by a trust under a will when the estate
9 of the decedent was administered under Chapters 28 or 28A of the
10 General Statutes. Instead, a fee of ~~ten dollars (\$10.00)~~ fifteen dollars
11 (\$15.00) shall be assessed on the filing of each annual and final
12 account.

13 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs
14 shall be assessed when the estate is administered or settled pursuant to
15 G.S. 28A-25-6.

16 (3) For probate of a will without qualification of a personal representative,
17 the clerk shall assess a facilities fee as provided in subdivision (1) of
18 this subsection and shall assess for support of the General Court of
19 Justice, the sum of ~~twelve dollars (\$12.00)~~ seventeen dollars (\$17.00)."

20 Sec. 5. G.S. 7A-307(b) reads as rewritten:

21 "(b) In collections of personal property by affidavit, the facilities fee and ~~twenty-~~
22 ~~two dollars (\$22.00)~~ twenty-six dollars (\$26.00) of the General Court of Justice fee shall
23 be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In all
24 other cases, these fees shall be paid at the time of filing of the first inventory. If the sole
25 asset of the estate is a cause of action, the ~~twenty-five dollars (\$25.00)~~ thirty dollars
26 (\$30.00) shall be paid at the time of the qualification of the fiduciary."

27 Sec. 6. G.S. 130A-328(a) reads as rewritten:

28 "(a) No person shall operate a community water system who has not been issued
29 an operating permit by the Department. A community water system operating permit
30 shall be valid ~~for one year from the date of issue~~ from January 1 through December 31 of
31 each year unless suspended or revoked by the Department for cause. The Commission
32 shall adopt rules concerning permit issuance and renewal and permit suspension and
33 revocation. The annual fees in subsection (b) shall be prorated on a monthly basis for
34 permits obtained after January 1 of each year."

35 Sec. 7. The percentage rate to be used in calculating the insurance regulatory
36 charge under G.S. 58-6-25 is seven and twenty-five hundredths percent (7.25%) for the
37 1992 taxable year.

38 Sec. 8. The percentage rate to be used in calculating the public utility
39 regulatory fee under G.S. 62-302(b)(2) is eighty-five thousandths percent (0.085%) of
40 each public utility's North Carolina jurisdictional revenues earned during each quarter
41 that begins on or after July 1, 1992.

42 Sec. 9. Sections 1 through 6 and Section 8 become effective July 1, 1992.
43 Section 7 of this act is effective for taxable years beginning on or after January 1, 1992.

- 1 Sections 1 through 5 of this act shall apply to all fees assessed or paid on and after July
- 2 1, 1992.