

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1430
Committee Substitute Favorable 6/25/01
Committee Substitute #2 Favorable 7/4/01

Short Title: Budget Fee Provisions.

(Public)

Sponsors:

Referred to:

May 9, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE COMMISSIONER OF LABOR TO ESTABLISH
3 CERTAIN FEES; TO ALLOW CERTAIN COUNTIES TO ACQUIRE PROPERTY
4 FOR PUBLIC SCHOOLS; TO LIMIT THE AUTHORITY OF AGENCIES TO
5 ESTABLISH OR INCREASE FEES CHARGED TO THE PUBLIC; AND TO
6 EXEMPT PRISONS LOCATED ON LAND OWNED BY THE STATE AND
7 BUILT PURSUANT TO A CONTRACT WITH THE STATE FROM PROPERTY
8 TAX.

9 The General Assembly of North Carolina enacts:

10 **LABOR COMMISSIONER FEE AUTHORITY**

11 **SECTION 1.(a)** G.S. 95-105 and G.S. 95-106 are repealed.

12 **SECTION 1.(b)** G.S. 95-107 reads as rewritten:

13 "**§ 95-107. Assessment and collection of fees; certificates of safe operation.**

14 The assessment of the fees ~~pursuant to this Article~~ adopted by the Commissioner
15 pursuant to G.S. 95-110.5 and G.S. 95-111.4 shall be made against the owner or
16 operator of ~~such~~ the equipment and may be collected at the time of inspection. If the
17 fees are not collected at the time of inspection, the Department must bill the owner or
18 operator of the equipment for the amount of the fee assessed ~~under this Article~~ for the
19 inspection of the equipment and the amount assessed is payable by the owner or
20 operator of the equipment upon receipt of the bill. Certificates of safe operation may be
21 withheld by the Department of Labor until such time as the assessed fees are collected."

22 **SECTION 1.(c)** G.S. 95-108 reads as rewritten:

23 "**§ 95-108. Disposition of fees.**

24 All fees collected by the Department of Labor pursuant to ~~this Article~~ G.S. 95-110.5
25 and G.S. 95-111.4 shall be deposited with the State Treasurer and shall be used
26 exclusively for inspection ~~purposes of the equipment referenced in this Article.~~ and
27 certification purposes."

1 **SECTION 1.(d)** G.S. 95-110.5 is amended by adding a new subdivision to
2 read:

3 "(20) To establish fees not to exceed two hundred dollars (\$200.00) for the
4 inspection and issuance of certificates of operation for all devices and
5 equipment subject to this Article upon installation or alteration, for
6 each follow-up inspection, and for periodic inspections thereafter."

7 **SECTION 1.(e)** G.S. 95-111.4 is amended by adding a new subdivision to
8 read:

9 "(19) To establish fees not to exceed two hundred fifty dollars (\$250.00) for
10 the inspection and issuance of certificates of operation for devices
11 subject to this Article that are in use."

12 **SECTION 1.(f)** Subsection (a) of this section becomes effective October 1,
13 2001. The remainder of this section is effective when it becomes law.

14

15 **CERTAIN COUNTIES MAY ACQUIRE PROPERTY FOR PUBLIC SCHOOLS**

16 **SECTION 2.(a)** G.S. 153A-158.1(e), as amended by S.L. 2001-76, reads as
17 rewritten:

18 "(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson,
19 Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,
20 Catawba, Chatham, Cherokee, Chowan, Columbus, Craven, Cumberland, Currituck,
21 Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates,
22 Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde,
23 Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin,
24 McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow,
25 Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond,
26 Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry,
27 Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, ~~and Wilson~~ Wilson, and
28 Yadkin Counties."

29 **SECTION 2.(b)** This section is effective when it becomes law.

30

31 **GENERAL ASSEMBLY TO AUTHORIZE AGENCY FEES**

32 **SECTION 3.(a)** G.S. 12-3.1 reads as rewritten:

33 "**§ 12-3.1. Fees and charges by agencies.**

34 (a) Authority. – Only the General Assembly has the power to authorize an
35 agency to establish or increase a fee or charge for the rendering of any service or
36 fulfilling of any duty to the public. In the construction of a statute, unless that
37 construction would be inconsistent with the manifest intent of the General Assembly or
38 repugnant to the context of the statute, the legislative grant of authority to an agency to
39 make and promulgate rules shall not be construed as a grant of authority to the agency
40 to establish by rule a fee or a charge for the rendering of any service or fulfilling of any
41 duty to the public, unless the statute expressly provides for the grant of authority to
42 establish a fee or charge for that specific service. Notwithstanding any other law, no

1 agency may establish or increase a fee or charge by rule without express authorization
2 by the General Assembly of the fee or charge or range of fees or charges to be
3 established or increased, or an authorization by the General Assembly of reasonable
4 fees to be established or increased, and the purpose of that fee or charge.

5 (b) ~~For purposes of this section:~~ Definitions. – The following definitions apply in
6 this section:

7 (1) Agency. – Every "Agency" means every agency, institution, board,
8 commission, bureau, department, division, council, member of the
9 Council of State, or officer of the legislative, executive or judicial
10 branches of State government. ~~"Agency"~~ The term does not include
11 counties, cities, towns, villages, other municipal corporations or
12 political subdivisions of the State or any agencies of ~~such~~ these
13 subdivisions, the University of North Carolina, community colleges,
14 hospitals, county or city boards of education, other local public
15 districts, units, or bodies of any kind, or private corporations created
16 by act of the General Assembly.

17 (2) Rule. – Every "Rule" means every rule, regulation, ordinance,
18 standard, and amendment thereto adopted by any ~~agency and includes~~
19 agency, including rules and regulations regarding substantive matters,
20 standards for products, procedural rules for complying with statutory
21 or regulatory authority or requirements and executive orders of the
22 Governor.

23 (c) Exceptions. – This section does not apply to any of the following:

- 24 (1) Rules establishing fees or charges to State, federal or local
25 governmental units.
26 (2) A reasonable fee or charge for copying, transcripts of public hearings,
27 State publications, or mailing a document or other item.
28 (3) Reasonable registration fees covering the cost of a conference or
29 workshop.
30 (4) Reasonable user fees covering the cost of providing data processing
31 services."

32 **SECTION 3.(b)** This section is effective when it becomes law.
33

34 PRISON PROPERTY TAX EXEMPTION

35 **SECTION 4.(a)** G.S. 105-275 is amended by adding a new subdivision to
36 read:

37 "**§ 105-275. Property classified and excluded from the tax base.**

38 The following classes of property are hereby designated special classes under
39 authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be
40 listed, appraised, assessed, or taxed:

41 ...

1 (39a) A correctional facility, including construction in progress, that is
2 located on land owned by the State and is constructed pursuant to a
3 contract with the State, and any leasehold interest in the land owned by
4 the State upon which the correctional facility is located."

5 **SECTION 4.(b)** This section is effective for taxes imposed for taxable years
6 beginning on or after July 1, 2001.