

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 928  
Second Edition Engrossed 5/4/89

Short Title: Utilities' Regulatory Fees.

(Public)

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Sponsors: Senators Smith and Rauch.

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Referred to: Finance.

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April 18, 1989

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH REGULATORY FEES FOR PUBLIC UTILITIES TO  
2 DEFRAID THE COST TO THE UTILITIES COMMISSION AND THE PUBLIC  
3 STAFF OF REGULATING PUBLIC UTILITIES IN THE INTEREST OF THE  
4 PUBLIC.  
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6 The General Assembly of North Carolina enacts:

7 Section 1. Article 14 of Chapter 62 of the General Statutes is amended by  
8 adding a new section to read:

9 "**§ 62-302. Regulatory fee.**

10 (a) Fee Imposed. It is the policy of the State of North Carolina to provide fair  
11 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The  
12 cost of regulating public utilities is a burden incident to the privilege of having available  
13 an adequate and reliable supply of public utility services. Therefore, for the purpose of  
14 defraying the cost of regulating public utilities, every public utility subject to the  
15 jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all  
16 other fees and taxes, as provided in this section. The fees collected shall be used only to  
17 pay the expenses of the Commission and the Public Staff in regulating public utilities in  
18 the interest of the public.

19 (b) Rate. For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i)  
20 twelve hundredths percent (0.12%) of each public utility's North Carolina  
21 jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25)  
22 each quarter. For fiscal years beginning on or after July 1, 1990, the regulatory fee shall  
23 be the greater of (i) a percentage rate, established by the Commission, of each public

1 utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and  
2 twenty-five cents (\$6.25) each quarter. As used in this section, the term 'North Carolina  
3 jurisdictional revenues' means all revenues derived or realized from intrastate tariffs,  
4 rates, and charges approved or allowed by the Commission or collected pursuant to  
5 Commission order or rule, but not including tap-on fees or any other form of  
6 contributions in aid of construction.

7 On or before September 15 of each year, the Commission shall announce the  
8 percentage rate of the regulatory fee applicable to North Carolina jurisdictional  
9 revenues to be realized during the current fiscal year. The rate may not exceed the  
10 amount necessary to generate funds sufficient to defray the estimated cost of the  
11 operations of the Commission and the Public Staff for the current fiscal year, including  
12 a reasonable margin for a reserve fund. The amount of the reserve may not exceed the  
13 estimated cost of operating the Commission and the Public Staff for the then current  
14 fiscal year. In calculating the amount of the reserve, the Commission shall consider all  
15 relevant factors that may affect the cost of operating the Commission or the Public Staff  
16 or a possible unanticipated increase or decrease in North Carolina jurisdictional  
17 revenues. If the Commission, the Public Staff, or both experience a revenue shortfall,  
18 the Commission shall implement a temporary regulatory fee surcharge to avert the  
19 deficiency that would otherwise occur. In no event may the total percentage rate of the  
20 regulatory fee plus any surcharge established by the Commission exceed twenty-five  
21 hundredths percent (0.25%).

22 (c) When Due. The regulatory fee imposed under this section is due and payable  
23 to the Commission on or before the 15th day of the second month following the end of  
24 each quarter. Every public utility subject to the regulatory fee shall, on or before the  
25 date the fee is due for each quarter, prepare and render a report on a form prescribed by  
26 the Commission. The report shall state the public utility's total North Carolina  
27 jurisdictional revenues for the preceding quarter and shall be accompanied by any  
28 supporting documentation that the Commission may by rule require. Receipts shall be  
29 reported on an accrual basis.

30 If a public utility's report for the first quarter of any fiscal year shows that  
31 application of the percentage rate would yield a quarterly fee of twenty-five dollars  
32 (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in  
33 the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the  
34 public utility's subsequent returns show that application of the percentage rate would  
35 yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal  
36 year, the public utility shall pay the cumulative amount of the fee resulting from  
37 application of the percentage rate, to the extent it exceeds the amount of fees, other than  
38 any surcharge, previously paid.

39 (d) Use of Proceeds. A special fund in the office of State Treasurer, the Utilities  
40 Commission and Public Staff Fund, is created. The fees collected pursuant to this  
41 section and all other funds received by the Commission or the Public Staff shall be  
42 deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed  
43 in an interest bearing account and any interest or other income derived from the Fund  
44 shall be credited to the Fund. The Utilities Commission and Public Staff Fund shall be

1 subject to the provisions of the Executive Budget Act except that no unexpended  
2 surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities  
3 Commission and Public Staff Fund shall be used only to pay the expenses of the  
4 Commission and the Public Staff in regulating public utilities in the interest of the  
5 public as provided by this Chapter; the funds shall be appropriated, reserved, set aside,  
6 and made available annually by the General Assembly until expended for this purpose."

7       Sec. 2. (a) There is appropriated from the General Fund to the Department of  
8 Commerce the sum of one million five hundred twenty-eight thousand dollars  
9 (\$1,528,000) for the 1989-90 fiscal year to pay the cost of operations of the North  
10 Carolina Utilities Commission for the period July 1, 1989, through December 31, 1989.

11       (b) There is appropriated from the General Fund to the Department of Commerce  
12 the sum of two million twelve thousand dollars (\$2,012,000) for the 1989-90 fiscal year  
13 to pay the cost of operations of the Public Staff of the North Carolina Utilities  
14 Commission for the period July 1, 1989, through December 31, 1989.

15       (c) When the proceeds of the regulatory fee provided by this act become  
16 available to the Utilities Commission and Public Staff Fund in an amount sufficient to  
17 pay the cost of operations of the Utilities Commission and the Public Staff, the funds  
18 appropriated by this section may no longer be used for that purpose and any part of the  
19 funds appropriated that remains unspent shall revert to the General Fund.

20       Sec. 3. G.S. 62-301 is repealed.

21       Sec. 4. This act does not affect the rights or liabilities of the State, a public  
22 utility, or another person arising under a statute repealed by this act before its repeal;  
23 nor does it affect the right to any refund or credit of a fee that would otherwise have  
24 been available under the repealed statute before its repeal.

25       Sec. 5. This act shall become effective July 1, 1989, shall apply to public  
26 utility North Carolina jurisdictional revenues earned on or after that date, and shall  
27 expire June 30, 1993.