

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 2034*

Short Title: Technical Changes/Agency Fees.

(Public)

Sponsors: Representatives Goodwin; Jones and Bell.

Referred to: State Government.

May 17, 2006

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CHANGES TO THE LAW RELATING TO THE
2 ESTABLISHMENT OR INCREASE OF FEES OR CHARGES BY STATE
3 AGENCIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE
4 ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 12-3.1 reads as rewritten:

8 **"§ 12-3.1. Fees and charges by agencies.**

9 (a) Authority. – Only the General Assembly has the power to authorize an
10 agency to establish or increase a fee or charge for the rendering of any service or
11 fulfilling of any duty to the public. In the construction of a statute, unless that
12 construction would be inconsistent with the manifest intent of the General Assembly or
13 repugnant to the context of the statute, the legislative grant of authority to an agency to
14 adopt rules shall not be construed as a grant of authority to the agency to establish by
15 rule a fee or a charge for the rendering of any service or fulfilling of any duty to the
16 public, unless the statute expressly provides for the grant of authority to establish a fee
17 or charge for that specific service. Notwithstanding any other law, a rule adopted by an
18 agency in accordance with Article 2A of Chapter 150B of the General Statutes to
19 establish or increase a fee or charge shall not go into effect until the agency has
20 consulted with the Joint Legislative Commission on Governmental Operations on the
21 amount and purpose of the fee or charge to be established or increased. The agency shall
22 submit a request for consultation to all members of the Commission, the Commission
23 Assistant, and the Fiscal Research Division of the General Assembly on the same date
24 the notice of text of the rule is published. The request for consultation shall consist of a
25 written report stating (i) the amount of the current fee or charge, if applicable, (ii) the
26 amount of the proposed new or increased fee or charge, (iii) the statutory authority for
27 the fee or charge, and (iv) a detailed explanation of the need for the establishment or
28 increase of the fee or charge.

1 (a1) If the Commission does not hold a meeting to hear the consultation required
2 by subsection (a) of this section within 90 days after the notice of text of the rule has
3 been published and the consultation request required by subsection (a) of this section
4 has been submitted, the consultation requirement is satisfied.

5 (b) ~~Definitions.—The following definitions apply in this section:~~

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

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

20 (c) ~~Exceptions.—This section does not apply to any of the following:~~

21 (1) ~~Rules establishing fees or charges to State, federal or local~~
22 ~~governmental units.~~

23 (2) ~~A reasonable fee or charge for copying, transcripts of public hearings,~~
24 ~~State publications, or mailing a document or other item.~~

25 (3) ~~Reasonable registration fees covering the cost of a conference or~~
26 ~~workshop.~~

27 (4) ~~Reasonable user fees covering the cost of providing data processing~~
28 ~~services.~~

29 (d) In lieu of the requirements of subsections (a) and (a1) of this section, the
30 North Carolina State Ports Authority shall report the establishment or increase of any
31 fee to the Joint Legislative Commission on Governmental Operations as provided in
32 G.S. 143B-454(a)(11)."

33 **SECTION 2.** This act is effective when it becomes law.