

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**HOUSE BILL 142\*  
Committee Substitute Favorable 5/30/12**

Short Title: Economic Development & Finance Changes.

(Public)

Sponsors:

Referred to:

February 21, 2011

A BILL TO BE ENTITLED

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT AND TO PROVIDE FISCAL RELIEF TO CITIZENS OF THE STATE BY (1) TEMPORARILY CAPPING THE GAS TAX, (2) DELAYING THE IMPOSITION OF TOLLS ON FERRY ROUTES, (3) EXEMPTING CERTAIN MOTIONS FROM CIVIL MOTIONS FILING FEE, (4) WAIVING THE FILING FEE OTHERWISE DUE FROM UNEMPLOYED INDIVIDUALS ORGANIZING LIMITED LIABILITY COMPANIES, (5) CLARIFYING AND EXTENDING THE APPROPRIATE FILING PERIOD FOR AN ECONOMIC INCENTIVE, (6) EXPANDING THE USE OF INDUSTRIAL DEVELOPMENT FUNDS FOR CERTAIN PROJECTS, AND (7) MAKING A TECHNICAL CORRECTION TO THE PORT ENHANCEMENT ZONE.

The General Assembly of North Carolina enacts:

**ONE-YEAR CAP ON MOTOR FUEL EXCISE TAX RATE**

**SECTION 1.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012, through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

**DELAY FERRY TOLL COLLECTION**

**SECTION 2.** Notwithstanding Item 24 on Page K-3 of the Senate Appropriations Committee Report on House Bill 200, incorporated into S.L. 2011-145 by Section 32.4(a) of that act, the Department of Transportation, Ferry Division, shall not collect the increased tolls required by S.L. 2011-145 during the 2012-2013 fiscal year.

**EXEMPT MOTIONS TO WITHDRAW FROM CIVIL MOTIONS FILING FEE**

**SECTION 3.(a)** G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief either (i) the taxing of costs, including attorneys' fees-fees, (ii) a motion to withdraw as attorney or counsel of record, or (iii) a motion to withdraw condemnor's deposit in a condemnation proceeding."

**SECTION 3.(b)** G.S. 7A-306(g) reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief either (i) the taxing of costs, including attorneys' fees-fees, (ii) a motion to withdraw as



1 attorney or counsel of record, or (iii) a motion to withdraw condemnor's deposit in a  
2 condemnation proceeding."

3 **SECTION 3.(c)** G.S. 7A-307(a)(4) reads as rewritten:

4 "(a) In the administration of the estates of decedents, minors, incompetents, of missing  
5 persons, and of trusts under wills and under powers of attorney, in trust proceedings under  
6 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal  
7 property by affidavit, the following costs shall be assessed:

8 ...  
9 (4) For the support of the General Court of Justice, the sum of twenty dollars  
10 (\$20.00) shall accompany any filing requiring a notice of hearing and  
11 containing one or more motions not listed in G.S. 7A-308 that is filed with  
12 the clerk. No costs shall be assessed to a motion containing as a sole claim  
13 for relief either (i) the taxing of costs, including attorneys' fees- fees, (ii) a  
14 motion to withdraw as attorney or counsel of record, or (iii) a motion to  
15 withdraw condemnor's deposit in a condemnation proceeding."

16 **SECTION 3.(d)** This section becomes effective August 1, 2012, and applies to  
17 motions filed on or after that date.

18  
19 **WAIVE THE FILING FEE FOR FILING ARTICLES OF ORGANIZATION WITH**  
20 **THE SECRETARY OF STATE FOR AN UNEMPLOYED INDIVIDUAL**

21 **SECTION 4.(a)** G.S. 57C-1-22 reads as rewritten:

22 "**§ 57C-1-22. Filing, service, and copying fees.**

23 (a) ~~The Except as provided in subsection (a1) of this section,~~ the Secretary of State  
24 shall collect the following fees when the documents described in this subsection are delivered  
25 to the Secretary of State for filing:

	<u>Document</u>	<u>Fee</u>
26		
27	(1) Articles of organization	\$125.00

28 ...  
29 (a1) The Secretary of State shall not collect the fee for delivery of articles of  
30 organization to the Secretary of State for filing when the organizer swears or affirms, under  
31 penalty of perjury on a form promulgated by the Secretary of State, that the organizer is an  
32 unemployed individual at the time of filing. The penalty imposed for perjury committed under  
33 this subsection is the same as that provided in G.S. 66-167.

34 ...."

35 **SECTION 4.(b)** This section becomes effective August 1, 2012, and applies to  
36 articles of organization filed on or after that date.

37  
38 **CLARIFY AND EXTEND THE PERIOD OF TIME TO APPLY FOR A SALES TAX**  
39 **REFUND OF AVIATION FUEL PURCHASED BY AN INTERSTATE PASSENGER**  
40 **AIR CARRIER BETWEEN JANUARY 1, 2010, AND JUNE 30, 2011**

41 **SECTION 5.(a)** For calendar year 2010, an interstate passenger air carrier that is  
42 eligible for a refund of sales and use taxes paid on fuel in excess of two million five hundred  
43 thousand dollars (\$2,500,000) under G.S. 105-164.14(a1) and G.S. 105-164.14A(a)(1) is  
44 subject to the provisions of this section, notwithstanding any provisions of G.S. 105-164.14,  
45 G.S. 105-164.14A, or Section 4 of S.L. 2010-166 to the contrary. Notwithstanding the fact that  
46 the first six months of 2010 are subject to G.S. 105-164.14(a1) and the last six months of 2010  
47 are subject to G.S. 105-164.14A(a)(1), a taxpayer shall submit one request for a refund for the  
48 entire calendar year.

49 **SECTION 5.(b)** An interstate passenger air carrier is allowed a refund of the sales  
50 and use tax paid by it on fuel in excess of one million two hundred fifty thousand dollars  
51 (\$1,250,000) for the period January 1, 2011, through June 30, 2011. The amount of sales and

1 use tax paid does not include a refund allowed to the interstate passenger air carrier under  
2 G.S. 105-164.14(a). A request for a refund must be in writing and must include any information  
3 and documentation required by the Secretary. The request for a refund is due before July 1,  
4 2012. Refunds applied for after the due date are barred.

5 **SECTION 5.(c)** Subsection (b) of this section is effective January 1, 2011, and  
6 applies to purchases made on or after that date. The remainder of this section is effective when  
7 it becomes law.

8  
9 **PERMIT THE USE OF MONEYS FROM THE INDUSTRIAL DEVELOPMENT FUND**  
10 **TO BE USED FOR SEWER IMPROVEMENTS IN ADJOINING COUNTIES**

11 **SECTION 6.** G.S. 143B-437.01(a) reads as rewritten:

12 "(a) Creation and Purpose of Fund. – There is created in the Department of Commerce  
13 the Industrial Development Fund to provide funds to assist the local government units of the  
14 most economically distressed counties in the State in creating and retaining jobs in certain  
15 industries. The Department of Commerce shall adopt rules providing for the administration of  
16 the program. Those rules shall include the following provisions, which shall apply to each grant  
17 from the fund:

- 18 (1) The funds shall be used for (i) installation of or purchases of equipment for  
19 eligible industries, (ii) structural repairs, improvements, or renovations of  
20 existing buildings to be used for expansion of eligible industries, or (iii)  
21 construction of or improvements to new or existing water, sewer, gas,  
22 telecommunications, high-speed broadband, electrical utility distribution  
23 lines or equipment, or transportation infrastructure for existing or new or  
24 proposed industrial buildings to be used for eligible industries. To be eligible  
25 for funding, the water, ~~sewer,~~ gas, telecommunications, high-speed  
26 broadband, electrical utility lines or facilities, or transportation infrastructure  
27 shall be located on the site of the building or, if not located on the site, shall  
28 be directly related to the operation of the specific eligible industrial activity.  
29 To be eligible for funding, the sewer infrastructure shall be located on the  
30 site of the building or, if not located on the site, shall be directly related to  
31 the operation of the specific eligible industrial activity, even if the sewer  
32 infrastructure is located in a county other than the county in which the  
33 building is located.

34 ...."

35  
36 **TECHNICAL CORRECTION FOR THE PORT ENHANCEMENT ZONE**  
37 **DESIGNATION**

38 **SECTION 7.(a)** G.S. 143B-437.013(a) reads as rewritten:

39 "(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets  
40 all of the following conditions:

- 41 (1) It is comprised of part or all of one or more contiguous census tracts, census  
42 block groups, or both, in the most recent federal decennial census.  
43 (2) All of the area is located within 25 miles of a State port and is capable of  
44 being used to enhance port operations.  
45 (3) Every census tract and census block group that comprises the area has at  
46 least eleven percent (11%) of households with incomes of fifteen thousand  
47 dollars (\$15,000) or less."

48 **SECTION 7.(b)** This section is effective for taxable years beginning on or after  
49 January 1, 2013.

50  
51 **EFFECTIVE DATE**

1                   **SECTION 8.** Except as otherwise provided, this act is effective when it becomes  
2 law.