

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

2

HOUSE BILL 945
Committee Substitute Favorable 6/10/92

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, TO AUTHORIZE THE DEPARTMENT OF HUMAN RESOURCES, DIVISION OF FACILITY SERVICES, TO CHARGE FEES FOR VARIOUS FACILITIES SEEKING LICENSURE OR CERTIFICATION, TO AUTHORIZE THE DEPARTMENT OF CORRECTION TO CHARGE A FEE FOR DRUG TESTING AS A CONDITION OF PROBATION OR PAROLE, TO ESTABLISH A FEE SCHEDULE FOR THE STANDARDS LABORATORY, AND TO ESTABLISH THE PERCENTAGE RATE FOR THE INSURANCE REGULATORY CHARGE.

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

- 1 served by a law-enforcement officer employed by a municipality, the
2 fee shall be paid to the municipality employing the officer.
- 3 (2) For the use of the courtroom and related judicial facilities, the sum of
4 ~~five dollars (\$5.00)~~ six dollars and fifty cents (\$6.50) in the district
5 court, including cases before a magistrate, and the sum of ~~twenty-three~~
6 ~~dollars (\$23.00)~~ twenty-four dollars and fifty cents (\$24.50) in superior
7 court, to be remitted to the county in which the judgment is rendered.
8 In all cases where the judgment is rendered in facilities provided by a
9 municipality, the facilities fee shall be paid to the municipality. Funds
10 derived from the facilities fees shall be used exclusively by the county
11 or municipality for providing, maintaining, and constructing adequate
12 courtroom and related judicial facilities, including: adequate space and
13 furniture for judges, district attorneys, public defenders, magistrates,
14 juries, and other court related personnel; office space, furniture and
15 vaults for the clerk; jail and juvenile detention facilities; free parking
16 for jurors; and a law library (including books) if one has heretofore
17 been established or if the governing body hereafter decides to establish
18 one. In the event the funds derived from the facilities fees exceed what
19 is needed for these purposes, the county or municipality may, with the
20 approval of the Administrative Officer of the Courts as to the amount,
21 use any or all of the excess to retire outstanding indebtedness incurred
22 in the construction of the facilities, or to reimburse the county or
23 municipality for funds expended in constructing or renovating the
24 facilities (without incurring any indebtedness) within a period of two
25 years before or after the date a district court is established in such
26 county, or to supplement the operations of the General Court of Justice
27 in the county.
- 28 (3) For the retirement and insurance benefits of both State and local
29 government law-enforcement officers, the sum of seven dollars and
30 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
31 cents (50¢) of this sum shall be administered as is provided in Article
32 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
33 five cents (\$5.75) of this sum shall be administered as is provided in
34 Article 12E of Chapter 143 of the General Statutes, with one dollar and
35 twenty-five cents (\$1.25) being administered in accordance with the
36 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
37 be administered as is provided in Article 12F of Chapter 143 of the
38 General Statutes.
- 39 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
40 five cents (75¢), to be remitted to the Department of Justice and
41 administered under the provisions of Article 12G of Chapter 143 of the
42 General Statutes.
- 43 (4) For support of the General Court of Justice, the sum of ~~thirty-seven~~
44 ~~dollars (\$37.00)~~ forty dollars and fifty cents (\$40.50) in the district

1 court, including cases before a magistrate, and the sum of ~~forty-four~~
 2 ~~dollars (\$44.00)~~ forty-seven dollars and fifty cents (\$47.50) in the
 3 superior court, to be remitted to the State Treasurer.

- 4 (5) For using pretrial release services, the district or superior court judge
 5 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be
 6 remitted to the county providing the pretrial release services. This cost
 7 shall be assessed and collected only if the defendant had been accepted
 8 and released to the supervision of the agency providing the pretrial
 9 release services."

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

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

- 13 (1) For the use of the courtroom and related judicial facilities, the sum of
 14 ~~five dollars (\$5.00)~~ six dollars and fifty cents (\$6.50) in cases heard
 15 before a magistrate, and the sum of ~~nine dollars (\$9.00)~~ ten dollars and
 16 fifty cents (\$10.50) in district and superior court, to be remitted to the
 17 county in which the judgment is rendered, except that in all cases in
 18 which the judgment is rendered in facilities provided by a
 19 municipality, the facilities fee shall be paid to the municipality. Funds
 20 derived from the facilities fees shall be used in the same manner, for
 21 the same purposes, and subject to the same restrictions, as facilities
 22 fees assessed in criminal actions.
- 23 (2) For support of the General Court of Justice, the sum of ~~fifty-one dollars~~
 24 ~~(\$51.00)~~ fifty-four dollars and fifty cents (\$54.50) in the superior court,
 25 and the sum of ~~thirty-six dollars (\$36.00)~~ thirty-nine dollars and fifty
 26 cents (\$39.50) in the district court except that if the case is assigned to
 27 a magistrate the sum shall be ~~twenty-four dollars (\$24.00)~~ twenty-seven
 28 dollars and fifty cents (\$27.50). Sums collected under this subsection
 29 shall be remitted to the State Treasurer."

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

31 **"§ 7A-306. Costs in special proceedings.**

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

- 34 (1) For the use of the courtroom and related judicial facilities, the sum of
 35 ~~three dollars (\$3.00)~~ four dollars and fifty cents (\$4.50) to be remitted
 36 to the county. Funds derived from the facilities fees shall be used in
 37 the same manner, for the same purposes, and subject to the same
 38 restrictions, as facilities fees assessed in criminal actions.
- 39 (2) For support of the General Court of Justice the sum of ~~twenty-two~~
 40 ~~dollars (\$22.00)~~ twenty-five dollars and fifty cents (\$25.50). In
 41 addition, in proceedings involving land, except boundary disputes, if
 42 the fair market value of the land involved is over one hundred dollars
 43 (\$100.00), there shall be an additional sum of thirty cents (30¢) per
 44 one hundred dollars (\$100.00) of value, or major fraction thereof, not

1 to exceed a maximum additional sum of two hundred dollars
2 (\$200.00). Fair market value is determined by the sale price if there is
3 a sale, the appraiser's valuation if there is no sale, or the appraised
4 value from the property tax records if there is neither a sale nor an
5 appraiser's valuation. Sums collected under this subsection shall be
6 remitted to the State Treasurer.

7 (b) The facilities fee and ~~twenty-two dollars (\$22.00)~~ twenty-five dollars and fifty
8 cents (\$25.50) of the General Court of Justice fee are payable at the time the proceeding
9 is initiated.

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

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

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

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

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

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

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

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

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

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

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

32 (1) For the use of the courtroom and related judicial facilities, the sum of
33 ~~three dollars (\$3.00)~~, four dollars and fifty cents (\$4.50), to be remitted
34 to the county. Funds derived from the facilities fees shall be used in
35 the same manner, for the same purposes, and subject to the same
36 restrictions, as facilities fees assessed in criminal actions.

37 (2) For support of the General Court of Justice, the sum of ~~twenty-two~~
38 ~~dollars (\$22.00)~~, twenty-five dollars and fifty cents (\$25.50), plus an
39 additional forty cents (40¢) per one hundred dollars (\$100.00), or
40 major fraction thereof, of the gross estate, not to exceed three thousand
41 dollars (\$3,000). Gross estate shall include the fair market value of all
42 personalty when received, and all proceeds from the sale of realty
43 coming into the hands of the fiduciary, but shall not include the value
44 of realty. In collections of personal property by affidavit, the fee based

1 on the gross estate shall be computed from the information in the final
 2 affidavit of collection made pursuant to G.S. 28A-25-3 and shall be
 3 paid when that affidavit is filed. In all other cases, this fee shall be
 4 computed from the information reported in the inventory and shall be
 5 paid when the inventory is filed with the clerk. If additional gross
 6 estate, including income, comes into the hands of the fiduciary after
 7 the filing of the inventory, the fee for such additional value shall be
 8 assessed and paid upon the filing of any account or report disclosing
 9 such additional value. For each filing the minimum fee shall be ~~five~~
 10 ~~dollars (\$5.00)~~ ten dollars (\$10.00). Sums collected under this
 11 subsection shall be remitted to the State Treasurer.

12 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
 13 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
 14 gross estate, not to exceed three thousand dollars (\$3,000), shall not be
 15 assessed on personalty received by a trust under a will when the estate
 16 of the decedent was administered under Chapters 28 or 28A of the
 17 General Statutes. Instead, a fee of ~~ten dollars (\$10.00)~~ fifteen dollars
 18 (\$15.00) shall be assessed on the filing of each annual and final
 19 account.

20 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs
 21 shall be assessed when the estate is administered or settled pursuant to
 22 G.S. 28A-25-6.

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

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

28 "(b) In collections of personal property by affidavit, the facilities fee and ~~twenty-~~
 29 ~~two dollars (\$22.00)~~ twenty-five dollars and fifty cents (\$25.50) of the General Court of
 30 Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S.
 31 28A-25-1. In all other cases, these fees shall be paid at the time of filing of the first
 32 inventory. If the sole asset of the estate is a cause of action, the ~~twenty-five dollars~~
 33 ~~(\$25.00)~~ thirty dollars (\$30.00) shall be paid at the time of the qualification of the
 34 fiduciary."

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

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

43 (b) For each permit issued during the period of January 1, 1992, to December 31,
 44 1993, the Department shall determine the number of months that the permit is valid

1 during that period of time. If the permit will expire during that period of time and must
 2 be renewed, the Department shall include in its determination the renewal months that
 3 fall within the January 1, 1992, to December 31, 1993, time period. Based on the
 4 number of months that the permit would be valid, including renewal months that fall
 5 within the specified time period, the Department shall calculate what the monthly fee
 6 rate would be for the permit. The Department shall not charge a permittee an amount
 7 that exceeds the monthly fee rate times the number of months that the permit is valid,
 8 including renewal months, during the January 1, 1992, to December 31, 1993, time
 9 period.

10 Sec. 7. Article 3 of Chapter 143B of the General Statutes is amended by
 11 adding a new section to read:

12 **"§ 143B-138.1. Fees for licensure or certification by the Division of Facility**
 13 **Services.**

14 The Department of Human Resources, Division of Facility Services, shall charge
 15 certain facilities that apply for licensure or certification fees to be applied to the State
 16 costs incurred in the licensure and certification procedures. The fees apply to
 17 applications for initial licensure or certification and to applications for renewal of
 18 licensure or certification. The amount of the fees and the facilities that must pay the
 19 fees are listed in the following table; a reference in the table to a Chapter is a reference
 20 to a Chapter of the General Statutes:

21	22 FEE FOR LICENSE	23 OR CERTIFICATION
24 TYPE OF FACILITY		
25	<u>Hospitals, licensed under Part A of Article 5 of Chapter 131E, and facilities,</u>	
26	<u>licensed under Article 2 of Chapter 122C, that are not certified by the</u>	
27	<u>Joint Commission on Accreditation of Hospitals \$100.00</u>	
28	<u>Hospitals, licensed under Part A of Article 5 of Chapter 131E, and facilities,</u>	
29	<u>licensed under Article 2 of Chapter 122C, that are certified by the</u>	
30	<u>Joint Commission on Accreditation of Hospitals \$25.00</u>	
31		
32	<u>Nursing Facilities, licensed under Part A of Article 6 of Chapter 131E, and</u>	
33	<u>Intermediate Care Facilities for the mentally retarded, licensed under</u>	
34	<u>Article 2 of Chapter 122C \$25.00</u>	
35	<u>plus \$1.00 per room</u>	
36	<u>Ambulatory Surgical Facilities, licensed under Part D of Article 6 of Chapter</u>	
37	<u>131E \$100.00</u>	
38		
39	<u>Home Health and Home Care Agencies, licensed under Part C of Article 6 of</u>	
40	<u>Chapter 131E, and Hospices, licensed under Article 10 of Chapter</u>	
41	<u>131E \$25.00</u>	
42		
43	<u>Nursing Pools, licensed under Part E of Article 6 of Chapter 131E \$50.00</u>	
44		

1 Cardiac Rehabilitation certification, under Article 8 of Chapter 131E \$100.00

2
3 Abortion Clinics, certified under Article 11 of Chapter 14 \$100.00

4
5 Domiciliary Care Facilities for the aged and disabled having six or more
6 beds, licensed under Article 1 of Chapter 131D \$25.00
7 plus 50¢ per bed

8 Domiciliary Care Facilities for group homes for developmentally disabled
9 adults and Family Care Homes, licensed under Article 1 of Chapter
10 131D \$50.00

11
12 Residential Facilities for the mentally retarded, licensed under Article 2 of
13 Chapter 122C \$50.00.

14 Fees collected under this section shall be credited to the General Fund."

15 Sec. 8. G.S. 15A-1343(b1)(7) reads as rewritten:

16 "(7) Submit at reasonable times to warrantless searches by a probation
17 officer of his person and of his vehicle and premises while he is
18 present, for purposes specified by the court and reasonably related to
19 his probation supervision, but the probationer may not be required to
20 submit to any other search that would otherwise be unlawful.
21 Whenever the warrantless search consists of testing for the presence of
22 illegal drugs, the probationer may also be required to reimburse the
23 Department of Correction for the actual cost of drug screening and
24 drug testing."

25 Sec. 9. G.S. 15A-1374(b)(11) reads as rewritten:

26 "(11) Submit at reasonable times to searches of his person by a parole
27 officer for purposes reasonably related to his parole supervision.
28 The Commission may not require as a condition of parole that the
29 parolee submit to any other searches that would otherwise be
30 unlawful. Whenever the search consists of testing for the presence
31 of illegal drugs, the parolee may also be required to reimburse the
32 Department of Correction for the actual cost of drug testing and
33 drug screening."

34 Sec. 10. Article 1 of Chapter 81A of the General Statutes is amended by
35 adding the following new section:

36 "**§ 81A-11. Fee schedule.**

37 (a) The following fees apply to all weights that are tested and certified to meet
38 tolerances less stringent than American National Standards Institute/American Society
39 for Testing and Materials (ANSI/ASTM) Standard E617 Class 4. If the weight error
40 exceeds three-fourths of the applicable tolerance, adjustment shall be required without
41 an additional fee. Even if weights are rejected or condemned, fees shall be assessed for
42 the test performed.

43 <u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
44 <u>0 - 2 lb</u>	<u>\$ 2.00</u>	<u>0 - 1 kg</u>	<u>\$ 2.00</u>

1	<u>3 - 10 lb</u>	<u>\$ 3.00</u>	<u>2 - 5 kg</u>	<u>\$ 3.00</u>
2	<u>11 - 50 lb</u>	<u>\$ 5.00</u>	<u>6 - 30 kg</u>	<u>\$ 5.00</u>
3	<u>51 - 500 lb</u>	<u>\$ 10.00</u>	<u>31 - 200 kg</u>	<u>\$ 10.00</u>
4	<u>501 - 1000 lb</u>	<u>\$ 15.00</u>	<u>201 - 450 kg</u>	<u>\$ 15.00</u>
5	<u>1001 - 2500 lb</u>	<u>\$ 20.00</u>	<u>451 - 1000 kg</u>	<u>\$ 20.00</u>
6	<u>2501 - 5000 lb</u>	<u>\$ 25.00</u>	<u>1001 - 2000 kg</u>	<u>\$ 25.00</u>

7 (b) The following fees apply to all weights that are tested and certified to meet
 8 ANSI/ASTM Standard E617 Class 4 or NIST Class P tolerances. If the weight error
 9 exceeds three-fourths of the applicable tolerance, adjustment shall be required without
 10 an additional fee. Even if weights are rejected or condemned, fees shall be assessed for
 11 the test performed.

12	<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
13	<u>0 - 10 lb</u>	<u>\$ 6.00</u>	<u>0 - 5 kg</u>	<u>\$ 6.00</u>
14	<u>11 - 50 lb</u>	<u>\$ 10.00</u>	<u>6 - 30 kg</u>	<u>\$ 10.00</u>
15	<u>51 - 500 lb</u>	<u>\$ 20.00</u>	<u>31 - 200 kg</u>	<u>\$ 20.00</u>
16	<u>501 - 1000 lb</u>	<u>\$ 30.00</u>	<u>201 - 450 kg</u>	<u>\$ 30.00</u>
17	<u>1001 - 2500 lb</u>	<u>\$ 40.00</u>	<u>451 - 1000 kg</u>	<u>\$ 40.00</u>
18	<u>2501 - 5000 lb</u>	<u>\$ 50.00</u>	<u>1001 - 2000 kg</u>	<u>\$ 50.00</u>

19 (c) The following fees apply to all weights that are calibrated. Calibration means
 20 determining actual mass and apparent mass values. Tolerance testing fees shall be
 21 assessed on weights that can only be adjusted to a lower tolerance or are rejected for any
 22 reason.

23	<u>Customary</u>	<u>Fee/Unit</u>	<u>Metric</u>	<u>Fee/Unit</u>
24	<u>0 - 20 lb</u>	<u>\$ 15.00</u>	<u>0 - 10 kg</u>	<u>\$ 15.00</u>
25	<u>21 - 50 lb</u>	<u>\$ 30.00</u>	<u>11 - 30 kg</u>	<u>\$ 30.00</u>
26	<u>51 - 1000 lb</u>	<u>\$ 50.00</u>	<u>31 - 450 kg</u>	<u>\$ 50.00</u>
27	<u>1001 - 2500 lb</u>	<u>\$ 100.00</u>	<u>451 - 1000 kg</u>	<u>\$ 100.00</u>
28	<u>2501 - 5000 lb</u>	<u>\$ 150.00</u>	<u>1001 - 2000 kg</u>	<u>\$ 150.00</u>

29 (d) The following fees apply to volumetric flasks, graduates, or test measures.

30	<u>Customary</u>	<u>Fee/Test Point</u>	<u>Metric</u>	<u>Fee/Test Point</u>
31	<u>0 - 5 gal</u>	<u>\$ 15.00</u>	<u>0 - 20 liters</u>	<u>\$ 15.00</u>
32	<u>Over 5 gal</u>	<u>Add \$0.20 per</u>	<u>Over 20 liters</u>	<u>Add \$0.05 per</u>
33		<u>each additional</u>		<u>each additional</u>
34		<u>gallon</u>		<u>liter</u>

35 (e) The following fees apply to tape measures and rigid rules.

36	<u>Set Up Fee</u>	<u>\$20.00 per instrument</u>
37	<u>Calibration</u>	<u>\$ 5.00 per calibration point</u>

38 (f) The following fees apply to liquid-in-glass and electronic thermometers.

39	<u>Set Up Fee</u>	<u>\$20.00 / instrument</u>
40	<u>Calibration</u>	<u>\$10.00 / calibration point</u>
41	<u>Ice Point Test</u>	<u>\$ 5.00</u>

42 (g) Any special tests or weight cleaning shall be billed at the rate of \$35.00 per
 43 hour prorated to the nearest tenth of an hour, with a minimum charge of \$17.50.

1 (h) If travel is required in connection with the performance of any of these
2 services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

3 (i) The Department may refuse to accept for testing any weight or measure the
4 Department deems unsuited for its intended use."

5 Sec. 11. The percentage rate to be used in calculating the insurance
6 regulatory charge under G.S. 58-6-25 is eight percent (8%) for the 1992 taxable year.

7 Sec. 12. Sections 1 through 9 become effective July 1, 1992. Section 10 of
8 this act becomes effective October 1, 1992. Section 11 of this act is effective upon
9 ratification and applies to the 1992 taxable year. Sections 1 through 5 of this act shall
10 apply to all fees assessed or paid on and after July 1, 1992.