

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**S**

**D**

**SENATE DRS35343-ROz-15\* (04/09)**

Short Title: Technical Changes/Agency Fees. (Public)

---

Sponsors: Senators Nesbitt, and Webster.

---

Referred to:

---

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

1 the fee or charge, and (iv) a detailed explanation of the need for the establishment or  
2 increase of the fee or charge.

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

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

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

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

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

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

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

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

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

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

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