

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Mar 17, 2015
S.B. 307
PRINCIPAL CLERK

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SENATE DRS35098-MLfa-124 (03/09)

Short Title: Eliminate Tolling on Ferries/Appropriation. (Public)

Sponsors: Senators Sanderson and Cook (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE THE ESTABLISHMENT OF TOLLS ON FERRY ROUTES AND
3 TO ANNUALLY APPROPRIATE FIVE MILLION DOLLARS FROM THE HIGHWAY
4 FUND TO THE FERRY CAPITAL IMPROVEMENT ACCOUNT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 136-82 reads as rewritten:

7 "§ 136-82. Department of Transportation to establish and maintain ferries.

8 (a) Powers of Department. – The Department of Transportation is vested with authority
9 to provide for the establishment and maintenance of ferries connecting the parts of the State
10 highway system, whenever in its discretion the public good may require, and shall prescribe
11 and collect tolls on the ferry routes as established by the Board of Transportation following the
12 procedures set forth in this section. require.

13 (b) Establishment of Tolling. — ~~The Board of Transportation may establish tolls on any~~
14 ~~untolled ferry route as set forth in this subsection. Prior to establishing tolls on an untolled ferry~~
15 ~~route, the Board of Transportation must receive a resolution approved by the Transportation~~
16 ~~Advisory Committee of each affected local transportation planning organization requesting~~
17 ~~tolls on that route. No later than March 1, 2014, the Department shall hold a separate public~~
18 ~~hearing in the geographic area of each untolled ferry route and invite each affected local~~
19 ~~transportation planning organization. At the public hearing, the Department shall present an~~
20 ~~explanation of the toll setting methodology, the impact of tolling on the availability of funding~~
21 ~~for other local transportation priorities, and the minimum and maximum toll rates. After the~~
22 ~~public hearing, an affected local transportation planning organization may consider and adopt a~~
23 ~~ferry tolling resolution. The Board of Transportation shall adopt the toll at its next regularly~~
24 ~~scheduled meeting after receipt of the ferry tolling resolutions required by this subsection. The~~
25 ~~Department shall collect the toll as soon as is feasible following its adoption, but in no case~~
26 ~~more than 180 days after adoption of the toll. The establishment of tolls by the Board of~~
27 ~~Transportation pursuant to the authority granted in this section shall be exempt from the~~
28 ~~provisions of Chapter 150B of the General Statutes. For purposes of this section, "affected local~~
29 ~~transportation planning organization" means any Metropolitan Planning Organization or Rural~~
30 ~~Transportation Planning Organization with geographic jurisdiction over any part of an untolled~~
31 ~~ferry route, and "untolled ferry route" means any ferry route for which no tolls were in effect as~~
32 ~~of June 30, 2013.~~

33 (c) Revisions of Tolls. — ~~The Department of Transportation shall report to the Fiscal~~
34 ~~Research Division, the Joint Legislative Transportation Oversight Committee, and all affected~~
35 ~~local transportation planning organizations 30 days prior to any change in toll rates or change~~
36 ~~in the toll setting methodology by the Board of Transportation.~~



1 (d) Use of Toll Proceeds. ~~The Department of Transportation shall credit the proceeds~~
2 ~~from tolls collected on North Carolina Ferry System routes and receipts generated under~~
3 ~~subsection (f) of this section to reserve accounts within the Highway Fund for each of the~~
4 ~~Highway Divisions in which system terminals are located and fares are earned. For the~~
5 ~~purposes of this subsection, fares are earned based on the terminals from which a passenger trip~~
6 ~~originates and terminates. Commuter pass receipts shall be credited proportionately to each~~
7 ~~reserve account based on the distribution of trips originating and terminating in each Highway~~
8 ~~Division. The proceeds credited to each reserve account shall be used exclusively for~~
9 ~~prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the~~
10 ~~Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel~~
11 ~~replacement projects or supplement funds allocated for ferry passenger vessel replacement~~
12 ~~projects approved in the Transportation Improvement Program.~~

13 (e) Powers of Department. – To accomplish the purpose of this section, the Department
14 of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary
15 vessels, boats, terminals or other facilities required for the proper operation of the ferries or to
16 enter into contracts with persons, firms or corporations for the operation thereof and to pay the
17 reasonable sums that in the opinion of the Department of Transportation represent the fair value
18 of the public service rendered.

19 (f) Authority to Generate Certain Receipts. – The Department of Transportation,
20 notwithstanding any other provision of law, may operate or contract for the following
21 receipt-generating activities and use the proceeds in accordance with subsection (f1) of this
22 section for ferry passenger vessel replacement projects in the manner set forth in subsection (d)
23 of this section: projects and other ferry system capital needs:

- 24 (1) Operation of, concessions on the ferries and at ferry facilities to provide to
25 passengers on the ferries food, drink, and other refreshments, personal
26 comfort items, Internet access, and souvenirs publicizing the ferry system.
- 27 (2) Sponsorships, including, but not limited to, the sale of naming rights to any
28 ferry vessel, ferry route, or ferry facility.
- 29 (3) Advertising on or within any ferry vessel or at any ferry facility, including,
30 but not limited to, display advertising and advertising delivered to
31 passengers through the use of video monitors, public address systems
32 installed in passenger areas, and other electronic media.
- 33 (4) Any other receipt-generating activity not otherwise forbidden by applicable
34 law pertaining to public health or safety.

35 The Department may issue rules to implement this subsection.

36 (f1) Ferry Capital Improvement Account. – The following shall be credited to a reserve
37 account in the Highway Fund which shall be designated as the Ferry Capital Improvement
38 Account:

- 39 (1) Net receipts generated under subsection (f) of this section.
- 40 (2) Notwithstanding G.S. 136-44.2(f1), the unallotted and unencumbered
41 balances on the last day of the fiscal year of funds appropriated from the
42 Highway Fund to the Ferry Division.
- 43 (3) Any other funds available from appropriations by the General Assembly or
44 from contributions and grants from public or private sources.

45 Funds credited to the account shall be used for prioritized improvements to the vessels and
46 facilities of the North Carolina Ferry System, including ferry passenger vessel replacement
47 projects.

48 (g) Confidentiality of Personal Information. – Identifying information obtained by the
49 Department related to operation of the ferry system is not a public record under Chapter 132 of
50 the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the
51 federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all

1 information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial
2 information, transaction history, and information related to the collection of a ~~toll or~~ user fee
3 from a person, including, but not limited to, photographs or other recorded images or automatic
4 vehicle identification or driver account information generated by radio-frequency identification
5 or other electronic means. The Department may use identifying information only for purposes
6 of collecting and enforcing ~~tolls-user fees~~. Nothing in this section is intended to limit the right
7 of any person to examine that person's own account information, or the right of any party, by
8 authority of a proper court order, to inspect and examine identifying information."

9 **SECTION 2.** G.S. 136-44.2(f1)(2)a. reads as rewritten:

10 "a. Funds appropriated from the Highway Fund for the multimodal
11 programs of the Department, consisting of funds for bicycle and
12 pedestrian, ferry, railroad, aviation, and public transportation
13 programs, excluding funds deposited in (i) the Freight Rail & Rail
14 Crossing Safety Improvement ~~Fund~~-Fund or (ii) the Ferry Capital
15 Improvement Account."

16 **SECTION 3.** The Board of Transportation shall cease collecting ferry tolls on the
17 effective date of this act and shall take action as expeditiously as possible to repeal its
18 regulations implementing ferry tolls. Prepaid tolls or commuter pass payments received by the
19 Department of Transportation for ferry trips on or after the effective date of this act shall be
20 refunded or, in the case of prepaid commuter passes, partially refunded based on the proportion
21 of the time period covered by the commuter pass for which tolls were in effect.

22 **SECTION 4.** Notwithstanding G.S. 143C-5-2, there is appropriated from the
23 Highway Fund to the Ferry Capital Improvement Account the sum of five million dollars
24 (\$5,000,000) in recurring funds for the 2015-2016 fiscal year to be used for purposes consistent
25 with G.S. 136-82(f1), as enacted by Section 1 of this act.

26 **SECTION 5.** This act becomes effective July 1, 2015.