

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1002
PROPOSED COMMITTEE SUBSTITUTE H1002-PCS40603-SU-39

Short Title: Ferry System Stabilization Act.

(Public)

Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO PROVIDE STABILITY AND PREDICTABILITY WITHIN THE STATE FERRY SYSTEM BY RESTORING STATE CONTROL TO THE SETTING OF FERRY TOLLS AND PROVIDING STATE FUNDS FOR IMPROVEMENTS TO THE STATE FERRY SYSTEM.

The General Assembly of North Carolina enacts:

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

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

(a) Powers of Department. – The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may require, and shall prescribe and collect tolls on the ferry routes as established by the Board of Transportation following the procedures set forth in this section. To accomplish the purpose of this section, the Department is authorized to acquire, own, lease, charter, or otherwise control all necessary vessels, boats, terminals, or other facilities required for the proper operation of the ferries or to enter into contracts with persons, firms, or corporations for the operation thereof and to pay the reasonable sums that in the opinion of the Department represent the fair value of the public service rendered.

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



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

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

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

23 (f) Authority to Generate Certain Receipts. – The Department of Transportation,
24 Department, notwithstanding any other provision of law, may operate or contract for the following
25 receipt-generating activities and, except as otherwise provided in subsection (f1)-(f2) of this
26 section, use credit the proceeds for ferry passenger vessel replacement projects in the manner set
27 forth in subsection (d) of this section to a reserve account within the Highway Fund for the State
28 Ferry System:

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

40 ~~The Department may issue rules to implement this subsection.~~

41 (f1) Use of Funds. – Proceeds and other funds credited to the reserve account described in
42 subsection (f) of this section shall be used exclusively for improvements to the State Ferry System,
43 which includes the following:

- 44 (1) The acquisition, construction, and rehabilitation of marine vessels used for
45 support and the transport of persons or vehicles between Ferry System
46 terminals. For purposes of this subdivision, the term "marine vessels" means
47 tugs, barges, dredges, and ferries other than passenger-only vessels.
- 48 (2) Replacement and rehabilitation of infrastructure allowing connection to Ferry
49 System terminals, including ramps, gantries, and bulkheads.

50 ~~(f1)(f2)Use of Receipts Generated From Shipyard.~~ – The Department of Transportation shall
51 credit the proceeds from receipts generated under subsection (f) of this section from activities

1 performed by the North Carolina State Shipyard to a reserve account within the Highway Fund to
2 be used exclusively for improvements to the Shipyard, including equipment and associated
3 infrastructure. ~~Notwithstanding the restrictions on the use of proceeds set forth in subsections (d)~~
4 ~~and (f) of this section, the Department may use a proportional amount of the proceeds credited to~~
5 ~~each reserve account described in subsection (d) of this section to replace or repair equipment in~~
6 ~~accordance with this subsection if there is an insufficient amount of funds in the reserve account~~
7 ~~within the Highway Fund for the Shipyard.~~

8 (f3) Disposition of Marine Vessels. – It is the intent of the General Assembly to modernize
9 the Ferry System fleet of marine vessels. Once a marine vessel reaches the end of its useful life, as
10 determined by the Department, the Department shall dispose of the vessel in a timely fashion.
11 Notwithstanding any provision of law to the contrary, any proceeds received from the disposition
12 of a marine vessel under this subsection shall be credited to the reserve account described in
13 subsection (f) of this section.

14 (g) Confidentiality of Personal Information. – Identifying information obtained by the
15 Department related to operation of the ferry system is not a public record under Chapter 132 of the
16 General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the federal
17 Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all
18 information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial
19 information, transaction history, and information related to the collection of a toll or user fee from
20 a person, including, but not limited to, photographs or other recorded images or automatic vehicle
21 identification or driver account information generated by radio-frequency identification or other
22 electronic means. The Department may use identifying information only for purposes of collecting
23 and enforcing tolls or user fees. Nothing in this section is intended to limit the right of any person to
24 examine that person's own account information, or the right of any party, by authority of a proper
25 court order, to inspect and examine identifying information.

26 (h) Report Prior to Acquisition or Construction of Marine Vessel. – Prior to the acquisition
27 or construction of a marine vessel pursuant to subsection (f1) of this section, the Department shall
28 report to the chairs of the House of Representatives Committee on Transportation Appropriations
29 and the Senate Appropriations Committee on Department of Transportation. The report shall
30 provide an estimate of the capital costs of acquiring or constructing the vessel, the costs of
31 operating the vessel, the vessel that will be decommissioned, the timing of the disposition of the
32 decommissioned vessel, and an estimate of the net proceeds that will be received from the
33 disposition. If the General Assembly is not in session at the time the report is to be submitted, the
34 Department shall instead report to the Joint Legislative Transportation Oversight Committee.

35 (i) Quarterly Report. – Beginning October 1, 2016, the Ferry Division of the Department
36 of Transportation shall provide a quarterly report to the following on any updates to its capital
37 improvement plan, any actions taken in deviation from its current capital improvement plan, the
38 status of authorized projects, and any obligations and expenses for the reserve accounts described
39 in subsections (f) and (f2) of this section:

40 (1) When the General Assembly is in session, to the chairs of the House of
41 Representatives Committee on Transportation Appropriations and the Senate
42 Appropriations Committee on Department of Transportation.

43 (2) When the General Assembly is not in session, to the chairs of the Joint
44 Legislative Transportation Oversight Committee.

45 (3) To the Fiscal Research Division of the General Assembly."

46 **SECTION 2.** G.S. 143B-350(f2) reads as rewritten:

47 "(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft
48 from the Equipment Fund or a ferry in a Transportation Improvement Program Fund, the Board of
49 Transportation shall prepare an estimate of the operational costs and capital costs associated with
50 the addition of the aircraft or ferry and shall report those additional costs to the General Assembly

1 pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental
2 Operations."

3 **SECTION 3.** G.S. 7A-312(a) reads as rewritten:

4 "(a) A juror in the General Court of Justice including a petit juror, or a coroner's juror, but
5 excluding a grand juror, shall receive twelve dollars (\$12.00) for the first day of service and
6 twenty dollars (\$20.00) per day afterwards, except that if any person serves as a juror for more
7 than five days in any 24-month period, the juror shall receive forty dollars (\$40.00) per day for
8 each day of service in excess of five days. A grand juror shall receive twenty dollars (\$20.00) per
9 day. A juror required to remain overnight at the site of the trial shall be furnished adequate
10 accommodations and subsistence. If required by the presiding judge to remain in a body during the
11 trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from
12 out of the county summoned to sit on a special venire shall receive mileage at the same rate as
13 State employees. ~~Persons summoned as jurors shall be exempt during their period of service from
14 paying a ferry toll required under G.S. 136-82 to travel to and from their homes and the site of that
15 service."~~

16 **SECTION 4.** G.S. 136-189.11(b)(8) is repealed.

17 **SECTION 5.** G.S. 136-189.10(2)h. is repealed.

18 **SECTION 6.** The Board of Transportation shall cease collecting ferry tolls on the
19 effective date of this act and shall take action as expeditiously as possible to repeal its regulations
20 implementing ferry tolls. Prepaid tolls or commuter pass payments received by the Department of
21 Transportation for ferry trips on or after the effective date of this act shall be refunded or, in the
22 case of prepaid commuter passes, partially refunded based on the proportion of the time period
23 covered by the commuter pass for which tolls were in effect. Any funds remaining in the reserve
24 accounts described in G.S. 136-82(d) as of the effective date of this act shall be used for any costs
25 associated with the initiation of passenger-only ferry service on the Hatteras-Ocracoke ferry route.

26 **SECTION 7.** Notwithstanding G.S. 150B-21.1(a), the Department of Transportation
27 may adopt temporary rules to administer this act.

28 **SECTION 8.** There is appropriated from the Highway Fund to the Department of
29 Transportation, the sum of thirteen million three hundred seventy-six thousand two hundred fifty
30 dollars (\$13,376,250) in recurring funds for the 2016-2017 fiscal year to be allocated to the
31 reserve account described in subsection (f) of G.S. 136-82, as amended by Section 1 of this act.

32 **SECTION 9.** G.S. 136-82(f3), as enacted by Section 1 of this act, becomes effective
33 July 1, 2016, and applies to dispositions on or after that date. The remainder of this act becomes
34 effective July 1, 2016.