

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 602

Short Title: Wake Impact Fees.

(Local)

Sponsors: Senators Johnson of Wake; and Speed.

Referred to: Finance.

March 22, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE AUTHORITY FOR THE WAKE COUNTY
3 BOARD OF COMMISSIONERS TO ENACT AN ORDINANCE IMPOSING
4 IMPACT FEES.

5 The General Assembly of North Carolina enacts:

6 Section 1. There is hereby added a new Part 6 to Article 18 of Chapter 153A
7 of the General Statutes to read:

8 **“PART 6. IMPACT FEES.**

9 **“§ 153A-378. Impact fees authorized.**

10 (a) The board of commissioners of a county may provide by ordinance for a
11 system of impact fees to be paid by developers to help defray the costs of the county of
12 constructing certain capital improvements, the need for which is created in substantial
13 part by the new development that takes place within the county.

14 (b) For purposes of this Part, the term ‘capital improvements’ includes any
15 purpose outlined in G.S. 159-48(b) and (c)(1) through (c)(4).

16 (c) An ordinance adopted pursuant to authority contained in this Part may be
17 made applicable to all development that occurs within the county.

18 **“§ 153A-378.1. Amount of fees.**

19 In establishing the amount of any impact fee, the county shall endeavor to approach
20 the objective of having every development contribute to a capital improvements fund an
21 amount of revenue that bears a reasonable relationship to that development's fair share
22 of the costs of the capital improvements that are needed in part because of that
23 development. In fulfilling this objective, the board of commissioners shall, among other
24 steps and actions:

- 1 (1) Estimate the total cost of improvements by category (e.g. schools,
2 public recreation facilities, etc.) that will be needed to provide in
3 reasonable manner for the public health, safety and welfare of persons
4 residing within the county during a reasonable planning period not to
5 exceed 20 years. The board of commissioners may divide the county
6 into two or more districts and estimate the costs of needed
7 improvements within each district. These estimates shall be
8 periodically reviewed and updated, and the planning period used may
9 be changed from time to time.
- 10 (2) Establish a percentage of the total costs of each category or
11 improvement that, in keeping with the objective set forth above,
12 should fairly be borne by the property charged with the fee.
- 13 (3) Establish a formula that fairly and objectively apportions the total
14 costs that are to be borne by those properties charged with impact fees
15 among various types of developments. By way of illustration, but
16 without limitation, in the case of improvements to schools, the impact
17 fee may be related to the size of the development, i.e., number of
18 houses, and the anticipated number of students expected from said
19 development according to recognized estimates, the impact thereof on
20 the need for additional school facilities in the county.

21 **"§ 153A-378.2. Capital improvements reserve funds; expenditures.**

22 (a) Impact fees received by the county shall be deposited in a Capital
23 Improvements Reserve Fund. Such funds may be expended only on the type of capital
24 improvements for which such impact fees were established, and then only in accordance
25 with the provisions of subsection (b) of this section.

26 (b) In order to ensure that impact fees paid by a particular development are
27 expended on capital improvements that benefit that development, the county may
28 establish for each category of capital improvement for which it collects an impact fee at
29 least two geographical districts or zones, and impact fees generated by development
30 within those districts or zones must be spent on improvements that were located within
31 or that benefit property located within those districts or zones.

32 **"§ 153A-378.3. Credits for improvements.**

33 An ordinance adopted under this act shall make provision for credits against required
34 fees when a developer installs improvements of a type that generally would be paid for
35 by the county out of a capital reserve account funded by impact fees. The ordinance
36 may spell out the circumstances under which a developer will be allowed to install such
37 improvements and receive such credits.

38 **"§ 153A-378.4. Appeals procedure.**

39 An ordinance adopted under this act may provide that any person aggrieved by a
40 decision regarding an impact fee may appeal to a designated county board. If the
41 ordinance established such an appeal procedure, it shall spell out the time within which
42 the appeal may be taken, the possible grounds for an appeal and the board's authority in
43 the matter, whether the fee must be paid prior to resolution of the appeal, and other
44 procedural or substantive matters related to appeals. Any decision by the board shall be

1 subject to review by the superior court within the county by proceedings in the nature of
2 certiorari in the manner as is provided in G.S. 153A-345(e).

3 **"§ 153A-378.5. Payment of impact fees.**

4 An ordinance adopted under this Part shall spell out when in the process of
5 development approval and construction impact fees shall be paid and by whom. By
6 way of illustration, and without limitation, the ordinance may provide that an applicant
7 for a building permit shall submit the impact fee along with the permit application and
8 that building permits shall not be issued until the impact fee has been paid.

9 **"§ 153A-378.6.**

10 If this Part or any ordinance adopted hereunder is declared to be unconstitutional or
11 otherwise invalid by any court of competent jurisdiction, then any impact fees collected
12 thereunder shall be refunded to the person paying them together with interest at the
13 same rate paid by the Secretary of Revenue on refunds for tax overpayment.

14 **"§ 153A-378.7. Limitation on actions.**

15 (a) Any action contesting the validity of an ordinance adopted pursuant to this
16 Part must be commenced not later than nine months after the effective date of such
17 ordinance.

18 (b) Any actions seeking to recover an impact fee must be commenced not later
19 than nine months after the impact fee is paid.

20 **"§ 153A-378.8. Repealer.**

21 All laws and clauses of laws, public and local, in conflict with this Part are hereby
22 repealed."

23 Sec. 2. This act applies to Wake County only.

24 Sec. 3. This act is effective upon ratification.