

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65104-LRxf-41 (2/15)

Short Title: Granville County Impact Fees. (Local)

Sponsors: Senator Berger of Franklin.

Referred to:

A BILL TO BE ENTITLED

AN ACT AUTHORIZING GRANVILLE COUNTY TO IMPOSE IMPACT FEES ON
NEW DEVELOPMENT WITHIN THAT COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Imposition of Impact Fees. The board of commissioners of Granville County may by ordinance impose and collect impact fees to be paid for each new dwelling to help defray the costs to the County of public school capital needs, including the construction, equipment, expansion, improvement, repair, replacement, and renovation of public schools, the need for which is created in substantial part by the new residential development that takes place within the County.

For the purposes of this act, a "dwelling" means any permanent structure having sleeping accommodations which is used as a residence, including single family detached homes, manufactured homes, and multifamily dwelling units, but excluding nonprofit institutions, nursing homes, and hospitals.

SECTION 2. Requirements and Scope of Impact Fees Ordinance. No impact fee shall be imposed unless the County has met the following procedural requirements:

(1) Before adopting or amending an impact fee ordinance, the county board of commissioners shall hold a public hearing on the proposed ordinance or amendment. A notice of the public hearing shall be given so as to conform with G.S. 160A-364.

(2) The county planning board shall be afforded a reasonable opportunity to make comments or recommendations to the county board of commissioners on the appropriateness of the impact fee ordinance or an amendment to the impact fee ordinance.

Notwithstanding G.S. 153A-122, an ordinance authorized by this act shall apply everywhere within the County, including within the corporate limits and

1 extraterritorial planning jurisdiction of any city, town, or municipal corporation within
2 the County.

3 **SECTION 3. Amount of Impact Fees.** In establishing the amount of
4 impact fees to be imposed, the County shall endeavor to have each new dwelling
5 contribute to a public school capital costs reserve fund an amount of revenue that bears
6 a reasonable relationship to that dwelling's fair share of the costs to the County of public
7 school capital needs that are needed in part because of that dwelling.

8 The County may establish within the County two or more districts or zones,
9 and impact fees generated by dwellings within those districts or zones shall be spent on
10 the public school capital needs within those districts or zones in order to provide that
11 impact fees paid by a particular dwelling are expended on public school capital needs
12 related to that dwelling.

13 In fulfilling the objectives of this section, the board of county commissioners
14 shall, among other steps and actions:

- 15 (1) Estimate the total costs of public school capital needs required during a
16 reasonable planning period not to exceed 20 years. The board of
17 county commissioners may divide the County into two or more
18 districts and estimate the costs of public school capital needs within
19 each district. The impact fees imposed may be different in different
20 districts, based upon differing public school capital needs among the
21 districts.
- 22 (2) Establish a method of imposing impact fees that fairly and objectively
23 apportions the total costs of public school capital needs that are to be
24 borne by those paying the impact fee.

25 **SECTION 4. Payment of Impact Fees.** An ordinance adopted under this
26 act shall state when, in the process of development, approval and construction impact
27 fees shall be paid and by whom. By way of illustration, and without limitation, the
28 ordinance may provide that an applicant for a building permit shall submit the impact
29 fee along with the permit application and that building permits shall not be issued until
30 the impact fee has been paid.

31 **SECTION 5. Public School Capital Costs Reserve Fund.** Impact fees
32 collected by the County shall be deposited in a Public School Capital Costs Reserve
33 Fund established pursuant to Part 2, Article 3 of Chapter 159 of the General Statutes.
34 The funds may be expended only on the costs to the County of public school capital
35 needs.

36 **SECTION 6. Appeals Process.** An ordinance adopted under this act may
37 provide that any person aggrieved by a decision regarding an impact fee may appeal to
38 the county board of adjustment. If the ordinance establishes an appeal procedure, it
39 shall state the time within which the appeal must be taken to the board of adjustment,
40 the possible grounds for an appeal, the board's authority in the matter, whether the fee
41 must be paid prior to resolution of the appeal, and other procedural or substantive
42 matters related to appeals.

1 Any decision of the board of adjustment shall be subject to review by the
2 superior court within the County by proceedings in the nature of certiorari in the same
3 manner as provided in G.S. 153A-345(e).

4 **SECTION 7. Refunds.** If an ordinance adopted under this act is declared to
5 be invalid by any court of competent jurisdiction, then any impact fee collected under
6 the ordinance shall be refunded to the person paying it together with interest at the rate
7 established under G.S. 105-241.1, being the same rate paid by the Secretary of Revenue
8 on refunds for tax overpayments.

9 **SECTION 8. Limitation on Actions.** Any action contesting the validity of
10 an ordinance adopted pursuant to this act shall be commenced not later than nine
11 months after the impact fee is paid. Any action seeking to recover an impact fee shall be
12 commenced not later than nine months after the impact fee is paid.

13 **SECTION 9. Cap on Impact Fees.** Any impact fee imposed pursuant to this
14 act shall not exceed two thousand dollars (\$2,000) per new dwelling.

15 **SECTION 10.** This act applies to Granville County only.

16 **SECTION 11.** This act becomes effective June 1, 2007. Section 9 of this act
17 expires June 1, 2010.