

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
Mar 31, 2021
S.B. 437
PRINCIPAL CLERK

S

D

SENATE BILL DRS35191-LMf-104A

Short Title: Local Governments/Impact Fees Authorized. (Public)

Sponsors: Senators Mayfield and Bazemore (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING COUNTIES AND CITIES TO IMPOSE IMPACT FEES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Part 3 of Article 13 of Chapter 160D of the General Statutes is amended
5 by adding a new section to read as follows:

6 "**§ 160D-1321. Impact fees.**

7 (a) Imposition of Impact Fee. – A local government may impose impact fees upon all
8 new construction within its corporate limits for the purpose of placing an equitable share of the
9 cost of providing new community service facilities upon developers and inhabitants of newly
10 developed areas. If the local government is a city, it may also impose impact fees upon all new
11 construction within its extraterritorial jurisdiction under G.S. 160D-202.

12 (b) Adopt Ordinances. – A local government may adopt ordinances to exercise the
13 authority granted by this section. Before enacting any ordinance to exercise the authority granted
14 by this section, a local government shall hold a public hearing on the ordinance. Notice of the
15 public hearing shall be given in accordance with the provisions of G.S. 160D-601.

16 (c) Amount of Impact Fee. – The amount of each impact fee imposed under this section
17 shall be uniform and based upon the capital costs to be incurred by the local government as a
18 result of the new construction. In establishing the impact fee, the local government may establish
19 zones within which the costs of providing community service facilities are estimated. Funds for
20 each community service facility for which an impact fee is collected shall be placed in a separate
21 capital reserve fund established and maintained as provided in Part 2 of Article 3 of Chapter 159
22 of the General Statutes. An ordinance adopted under this section shall provide for credits against
23 required impact fees when a developer installs improvements of a type that generally would be
24 paid for by the local government out of a capital reserve account funded by impact fees.

25 (d) Challenge to Impact Fee. – To challenge an impact fee, a developer shall pay the
26 amount charged by the local government, clearly identify that payment is made under protest,
27 and give notice of appeal within 30 days after the date that payment under protest is made. The
28 governing body of the local government shall designate an individual or the board of adjustment
29 appointed pursuant to G.S. 160D-302 to hear appeals under this subsection. The provisions of
30 Article 4 of Chapter 160D of the General Statutes shall apply to appeals under this section, and
31 the decision on the appeal is subject to review by the superior court in the nature of certiorari as
32 provided in G.S. 160D-1402.

33 (e) Effect on Local Acts. – This section supplements but does not supplant the authority
34 of a local government to levy an impact fee under a local act.

35 (f) Definitions. – The following definitions apply in this section:



* D R S 3 5 1 9 1 - L M F - 1 0 4 A *

- 1 (1) Capital costs. – Costs spent for developing community service facilities.
2 Capital costs are limited to capital outlay items listed in the "Uniform
3 Accounting System for Local Government in North Carolina" procedural
4 manual prepared by the North Carolina Local Government Commission.
5 (2) Community services facilities. – The following public facilities or
6 improvements provided or established by the local government or in
7 conjunction with other units of government:
8 a. Drainage projects.
9 b. Parks, open spaces, and recreational facilities.
10 c. Streets, sidewalks, thoroughfare rights-of-way, and public transit
11 stations and capital equipment.
12 d. Emergency medical services facilities.
13 e. Fire and police stations.
14 f. Schools.
15 g. Cultural facilities, including libraries.
16 h. Solid waste collection, handling, disposal, and recycling.
17 (3) Developer. – An individual, corporation, partnership, organization,
18 association, firm, political subdivision, or other legal entity constructing or
19 creating new construction.
20 (4) Impact fee. – The charge imposed upon new construction under this section.
21 (5) Local government. – A city or county.
22 (6) New construction. – Any new development, construction, or installation for
23 which a building or zoning permit, a certification, or any other type of
24 governmental approval is required. New construction includes the installation
25 of a mobile home, factory-built housing, or modular housing. New
26 construction does not include (i) renovation and repair of existing structures,
27 structures incidental to accessory uses, or additions, unless the renovation,
28 repairs, or additions will cause an increase in off-street parking requirements
29 or a change in occupancy as occupancy is defined by the North Carolina State
30 Building Code and (ii) fences, billboards, poles, pipelines, transmission lines,
31 advertising signs, or similar structures that do not generate a need for
32 community service facilities."

33 **SECTION 2.** This act becomes effective July 1, 2021.