

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 576

Local Government & Regional Affairs Committee Substitute Adopted 4/19/89

Short Title: Wake Forest Facility Fees.

(Local)

Sponsors:

Referred to:

March 22, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE TOWN OF WAKE FOREST TO IMPOSE FACILITY
3 FEES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Purpose. It is the purpose of this act to place an equitable share of
6 the cost of providing new community service facilities upon all new inhabitants and
7 upon those associated with the development process.

8 Sec. 2. Definitions. The following definitions apply in this act unless the
9 context clearly requires otherwise:

10 (1) "Capital costs" means costs spent for developing community service
11 facilities; such costs are limited to capital outlay items listed in the
12 "Uniform Local Government Accounting Systems" procedural manual
13 prepared by the North Carolina Local Government Commission.

14 (2) "Community service facilities" means the following public facilities or
15 improvements provided or established by the local government or in
16 conjunction with other units of government:

- 17 a. Water, sewer, and drainage projects;
- 18 b. Parks, open spaces, and recreational facilities;
- 19 c. Sidewalks, thoroughfare rights-of-way;
- 20 d. Emergency medical services facilities;
- 21 e. Fire stations;
- 22 f. Schools;
- 23 g. Cultural facilities other than libraries;

- 1 h. Libraries;
2 i. Solid waste collection; and
3 j. Solid waste handling, disposal, and recycling.

4 No other facility shall be considered as "Community service facilities" under
5 the provisions of this act.

- 6 (3) " Facility fee" means the charge imposed on new development in
7 relation to the impact placed on Town facilities.
8 (4) " Developer" means an individual, corporation, partnership,
9 organization, association, firm, political subdivision, or other legal
10 entity constructing or creating new construction.
11 (5) " New construction" means any new development, construction, or
12 installation that requires any building or zoning permit, certification, or
13 other action permitting real property improvements. The term includes
14 the installation of a mobile home or factory built or modular housing.
15 The term excludes the renovation and repair of existing structures and
16 accessory uses and their structures, unless such renovations and repairs
17 and accessory uses shall cause an increase in the off-street parking
18 requirement or a change in occupancy as occupancy is defined by the
19 North Carolina State Building Code. The term also excludes additions
20 unless such addition causes an increase in the off-street parking
21 requirement or a change in occupancy as occupancy is defined by the
22 North Carolina State Building Code. Further, the term does not
23 include fences, billboards, poles, pipelines, transmission lines,
24 advertising signs or similar structures, and improvements that do not
25 generate the need for additional or expanded community facilities
26 upon completion of the additions or improvements.

27 Sec. 3. An ordinance adopted under this act may be made applicable to all
28 development that occurs within the Town and its extraterritorial planning area, as
29 established by local act or pursuant to G.S. 160A-360, provided that facility fees within
30 the extraterritorial planning area shall be limited to those attributable to services to be
31 provided by the municipality.

32 Sec. 4. (a) No facility fee shall be imposed until the Town has caused to be
33 prepared a report containing:

- 34 (1) A description of the anticipated capital cost to the Town of each
35 additional or expanded community service facility generated by new
36 construction;
37 (2) A description of the relevant characteristics of construction that give
38 rise to additional or expanded community service facilities such as
39 population, trip generation and stormwater run-off and flow
40 characteristics; and
41 (3) A plan for providing one or more of the community service facilities.

42 (b) Before adopting or amending a facility fee ordinance authorized by this act,
43 the board of commissioners shall hold a public hearing on it. A notice of the public
44 hearing shall be given so as to conform with G.S. 160A-364. No facility fee ordinance

1 shall be adopted or amended without first giving the planning board a reasonable
2 opportunity to make comments or recommendations to the board of commissioners.

3 (c) The amount of each facility fee imposed and collected shall be based upon
4 reasonable and uniform considerations of capital costs to be incurred by the Town as the
5 result of new construction. In establishing the facilities fees to be imposed, the board of
6 commissioners may divide the Town into two or more zones in order to determine the
7 estimated costs of providing any or all of the facilities described herein; such division
8 shall be done only after a public hearing and after the matter has been studied and
9 reported on to the board of commissioners by the planning board. The facilities fees
10 may be different in different zones, depending upon whether each zone already has
11 certain facilities available and whether or not the capital costs thereof have been paid or
12 are yet to be paid. The facility must bear a direct relationship to additional or expended
13 public capital costs of community service facilities to be rendered for the inhabitants of
14 the area, occupants of the new construction, or those persons, firms, or corporations
15 responsible for developing any new development, whether commercial, industrial,
16 residential, or otherwise or any other developer.

17 (d) The amount of each facility fee shall be based upon qualified needs and
18 specific classifications and rates, which shall be uniformly applied to all members.
19 However, the classification shall be based upon the amount, the cost, and the extent of
20 the additional burden being placed upon the public facilities by particular types and
21 sizes of development.

22 (e) Monies for each particular facility for which a facility fee is collected
23 shall be placed in a separate trust fund. All such revenues shall be spent for the capital
24 facilities for which they were collected and such benefits shall not be exclusive, that is,
25 persons or developers who pay a facility fee hereunder shall not thereby obtain any
26 rights to use public facilities greater than any other member of the public in a similar
27 classification and situation. Separate service areas and zones with separate trust funds
28 may be established.

29 Sec. 5. The Town of Wake Forest is authorized to enact ordinances,
30 resolutions, rules, and regulations that are necessary or expedient for the execution and
31 effectiveness of this act.

32 Sec. 6. The powers conferred in this act shall be supplementary to all other
33 powers and procedures authorized by any other general or local law. Assessments,
34 charges, fees, or rates authorized by any other general or local law are not affected by
35 this act.

36 Sec. 7. The following shall be the procedure for hearing appeals concerning
37 the amount of a facilities fee or concerning the propriety or illegality of any zone
38 division or classification or rate. Any person who feels aggrieved by any action by the
39 Town of Wake Forest pursuant to this act must first pay the amount of the facilities fee
40 so charged to him, with such amount clearly marked as paid under protest, and
41 thereafter give notice of appeal within a period of 30 days after such payment. Such
42 notice shall be delivered by personal service or registered or certified mail, return
43 receipt requested, directed to the town administrator. A public hearing shall be held to
44 review said matter within a period of 35 days following receipt of notice of appeal; the

1 decision upon said appeal shall then be subject to review by the Superior Court by
2 proceedings in the nature of **certiorari**; any petition for review by the Superior Court
3 shall be filed with the Clerk of Superior Court of Wake County within a period of 30
4 days following the date the decision of the Wake Forest Board of Commissioners is
5 delivered in writing to the appealing party, said delivery to be either by personal service
6 or by registered mail or certified mail, return receipt requested.

7 Sec. 8. This act applies only to the Town of Wake Forest.

8 Sec. 9. This act is effective upon ratification and shall apply only to projects
9 initiated after the effective date of this act.