

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2213*

Short Title: Clarify Power To Collect Stormwater Charge.

(Public)

Sponsors: Representatives Hurley, Bowie, Grimmer, Hasty, Ligon; Warner, Beard, Edwards, and Gibson.

Referred to: Finance.

May 31, 1990

1 A BILL TO BE ENTITLED
2 AN ACT CLARIFYING THE POWER OF CITIES AND COUNTIES TO COLLECT
3 CHARGES FOR THE USE OF STORMWATER UTILITIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 16 of Chapter 160A of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 160A-314.1. Authority to fix and enforce rates for stormwater and drainage**
8 **systems.**

9 (a) A city may establish and revise from time to time schedules of rates, fees,
10 charges, and penalties for the acquisition, construction, operation, and maintenance of
11 stormwater and drainage systems to serve real property. The incidence of stormwater
12 run-off from property is considered use by the owner of the property of a stormwater
13 and drainage system. Schedules of rates, fees, charges, and penalties may vary
14 according to whether the property served is residential, commercial, or industrial
15 property, the property's use, the size of the property, the area of impervious surfaces on
16 the property, the quantity and quality of run-off from the property, the characteristics of
17 the watershed into which stormwater from the property drains, and other factors that
18 affect the stormwater and drainage system. Rates, fees, and charges imposed under this
19 section may not exceed the city's cost of providing a stormwater and drainage system.

20 (b) Rates, fees, charges, and penalties for stormwater and drainage systems are
21 joint and several legal obligations of the owner and any tenant of the property served.
22 The amount imposed may be billed on the property tax bill, on the bill for water, sewer,
23 or other enterprisory services, or separately. If the amount imposed is included on a bill

1 with other enterprisory services, the council may, by ordinance, specify the order in
2 which partial payments are to be applied among the various services, to the extent
3 allowed by bond covenants.

4 Amounts imposed under this section may be collected by the methods allowed under
5 Article 10 of this Chapter for collection of special assessments, other than by
6 installments, and shall bear interest at the same rate as a special assessment. The
7 amounts imposed become a lien against the property served when the city files a notice
8 of lien in the office of the clerk of superior court. A notice of lien may not be filed
9 unless the city, by ordinance, has established notice and hearing procedures and the
10 owner of the property has been given notice and an opportunity to be heard in
11 accordance with the procedures. A lien under this section is next in priority after a
12 special assessment lien.

13 (c) G.S. 160A-314 does not apply to stormwater and drainage systems. This
14 section does not repeal any part of a local act that is inconsistent with the section."

15 Sec. 2. Article 15 of Chapter 153A of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 153A-277.1. Authority to fix and enforce rates for stormwater and drainage**
18 **systems.**

19 (a) A county may establish and revise from time to time schedules of rates, fees,
20 charges, and penalties for the acquisition, construction, operation, and maintenance of
21 stormwater and drainage systems to serve real property. The incidence of stormwater
22 run-off from property is considered use by the owner of the property of a stormwater
23 and drainage system. Schedules of rates, fees, charges, and penalties may vary
24 according to whether the property served is residential, commercial, or industrial
25 property, the property's use, the size of the property, the area of impervious surfaces on
26 the property, the quantity and quality of run-off from the property, the characteristics of
27 the watershed into which stormwater from the property drains, and other factors that
28 affect the stormwater and drainage system. Rates, fees, and charges imposed under this
29 section may not exceed the county's cost of providing a stormwater and drainage
30 system.

31 (b) Rates, fees, charges, and penalties for stormwater and drainage systems are
32 joint and several legal obligations of the owner and any tenant of the property served.
33 The amount imposed may be billed on the property tax bill, on the bill for water, sewer,
34 or other enterprisory services, or separately. If the amount imposed is included on a bill
35 with other enterprisory services, the board of commissioners may, by ordinance, specify
36 the order in which partial payments are to be applied among the various services, to the
37 extent allowed by bond covenants.

38 Amounts imposed under this section may be collected by the methods allowed under
39 Article 9 of this Chapter for collection of special assessments, other than by
40 installments, and shall bear interest at the same rate as a special assessment. The
41 amounts imposed become a lien against the property served when the county files a
42 notice of lien in the office of the clerk of superior court. A notice of lien may not be
43 filed unless the county, by ordinance, has established notice and hearing procedures and
44 the owner of the property has been given notice and an opportunity to be heard in

1 accordance with the procedures. A lien under this section is next in priority after a
2 special assessment lien.

3 (c) G.S. 153A-277 does not apply to stormwater and drainage systems. This
4 section does not repeal any part of a local act that is inconsistent with the section."

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