

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 528

Short Title: Union County Impact Fees.

(Local)

Sponsors: Representative Melton.

Referred to: Rules, Calendar and Operations of the House.

March 22, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE UNION COUNTY TO IMPOSE AN IMPACT FEE TO
2 GENERATE FUNDS FOR PUBLIC SCHOOL CAPITAL NEEDS.
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Whereas, Union County has immediate and urgent needs for public school capital improvements; and

Whereas, the school-age population in Union County continues to grow at a rapid rate; and

Whereas, it is the purpose of this act to place an equitable share of the cost of providing school improvements upon all new inhabitants and upon those associated with the development process; Now, therefore,

4 The General Assembly of North Carolina enacts:

5 Section 1. This act applies only to Union County.

6 Section 2. **Imposition of Impact Fees.** The board of commissioners of Union
7 County may by ordinance impose and collect impact fees to be paid for each new
8 dwelling to help defray the costs to the County of public school capital needs, including
9 the construction, equipment, expansion, improvement, and renovation of public schools,
10 the need for which is created in substantial part by the new residential development that
11 takes place within the County. A "dwelling" includes any permanent structure having
12 sleeping accommodations which is used as a residence, including apartment houses and
13 manufactured housing, but excluding nonprofit institutions, nursing homes, and hospitals.

1 Section 3. **Scope of Impact Fees Ordinance.** (a) No impact fee shall be imposed
2 unless the County has met the following procedural requirements:

- 3 (1) Before adopting or amending an impact fee ordinance, the county
4 board of commissioners shall hold a public hearing on the
5 proposed ordinance or amendment. A notice of the public
6 hearing shall be given so as to conform with G.S. 153A-21.
7 (2) The county planning board shall be afforded a reasonable
8 opportunity to make comments or recommendations to the
9 county board of commissioners on the appropriateness of the
10 impact fee ordinance or an amendment to the impact fee
11 ordinance.

12 (b) An ordinance authorized by this act shall apply everywhere within the County,
13 including within the corporate limits and extraterritorial planning jurisdiction of any city,
14 town, or municipal corporation within the County.

15 Section 4. **Amount of Impact Fees.** In establishing the amount of impact fees
16 to be imposed, the County shall endeavor to approach the objective of having each new
17 dwelling contribute to a public school capital costs reserve fund an amount of revenue
18 that bears a reasonable relationship to that dwelling's fair share of the costs to the County
19 of public school capital needs that are needed in part because of that dwelling. In
20 fulfilling this objective, the board of county commissioners shall, among other steps and
21 actions:

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

31 Section 5. **Payment of Impact Fees.** An ordinance adopted under this act
32 shall state when, in the process of development, approval and construction impact fees
33 shall be paid and by whom. By way of illustration, and without limitation, the ordinance
34 may provide that an applicant for a building permit shall submit the impact fee along with
35 the permit application and that building permits shall not be issued until the impact fee
36 has been paid.

37 Section 6. **Public School Capital Costs Reserve Fund.** (a) Impact fees
38 collected by the County shall be deposited in a Public School Capital Costs Reserve Fund
39 established pursuant to Part 2, Article 3 of Chapter 159 of the General Statutes. The
40 funds may be expended only on the costs to the County of public school capital needs.

41 (b) In order to provide that impact fees paid by a particular dwelling are expended
42 on public school capital needs related to that dwelling, the County may establish within
43 the County two or more districts or zones, and impact fees generated by dwellings within

1 those districts or zones shall be spent on the public school capital needs within those
2 districts or zones.

3 Section 7. **Appeals Process.** (a) An ordinance adopted under this act may
4 provide that any person aggrieved by a decision regarding an impact fee may appeal to
5 the county board of adjustment. If the ordinance establishes an appeal procedure, it shall
6 state the time within which the appeal must be taken to the board of adjustment, the
7 possible grounds for an appeal, the board's authority in the matter, whether the fee must
8 be paid prior to resolution of the appeal, and other procedural or substantive matters
9 related to appeals.

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

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

18 Section 9. **Limitation on Actions.** (a) Any action contesting the validity of an
19 ordinance adopted pursuant to this act shall be commenced not later than nine months
20 after the impact fee is paid.

21 (b) Any action seeking to recover an impact fee shall be commenced not later than
22 nine months after the impact fee is paid.

23 Section 10. This act is effective when it becomes law.