

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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HOUSE BILL 1218

Short Title: Brunswick County Impact Fees. (Local)

Sponsors: Representatives Stiller, Hill (Primary Sponsors); Harrison and Insko.

Referred to: Finance.

March 29, 2007

A BILL TO BE ENTITLED
AN ACT AUTHORIZING BRUNSWICK 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 Brunswick County may by ordinance impose and collect impact fees to be paid for each new development in the County to help defray the costs to the County caused by the new development. In establishing the amount of impact fees to be imposed, the County shall endeavor to have each new development pay an amount that bears a reasonable relationship to that development's fair share of the costs of new development to the County. For the purposes of this act, the term "development" includes commercial and residential development.

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

SECTION 3. Payment of Impact Fees. – An ordinance adopted under this act shall state when, in the process of development, approval and construction impact

1 fees shall be paid and by whom. By way of illustration, and without limitation, the
2 ordinance may provide that an applicant for a building permit shall submit the impact
3 fee along with the permit application and that building permits shall not be issued until
4 the impact fee has been paid.

5 **SECTION 4.** Appeals Process. – An ordinance adopted under this act may
6 provide that any person aggrieved by a decision regarding an impact fee may appeal to
7 the County board of adjustment. If the ordinance establishes an appeal procedure, it
8 shall state the time within which the appeal must be taken to the board of adjustment,
9 the possible grounds for an appeal, the board's authority in the matter, whether the fee
10 must be paid prior to resolution of the appeal, and other procedural or substantive
11 matters related to appeals. Any decision of the board of adjustment shall be subject to
12 review by the superior court within the County by proceedings in the nature of certiorari
13 in the same manner as provided in G.S. 153A-345(e).

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

19 **SECTION 6.** Limitation on Actions. – Any action contesting the validity of
20 an ordinance adopted pursuant to this act shall be commenced not later than nine
21 months after the impact fee is paid. Any action seeking to recover an impact fee shall be
22 commenced not later than nine months after the impact fee is paid.

23 **SECTION 7.** Applicability. – This act applies to Brunswick County only.

24 **SECTION 8.** Effective Date. – This act is effective when it becomes law.