

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 477
HOUSE BILL 908

AN ACT TO ALLOW THE TOWN OF BENSON TO IMPOSE WATER AND
WASTEWATER LINE CAPACITY CHARGES.

Whereas, rapid growth through the influx of new construction imposes on the Town of Benson increased capital costs necessary to insure that adequate water and wastewater lines for the customers of the town's systems are made available to the users of the town's water and wastewater lines; and

Whereas, it is the purpose of this act to better enable the Town of Benson to accommodate orderly growth and development within its corporate limits and extraterritorial jurisdiction by providing them with new methods of regulating development to meet increased demands for the upgrading and future expansion of its water and wastewater lines; and

Whereas, it is the further purpose of this act to place an equitable share of the costs of upgrading, expanding and adding to the present water and wastewater lines on all new and expanded users of such lines; and

Whereas, it is the intent of the General Assembly that the costs of upgrading, expanding and adding to the present water and wastewater lines be borne in part by those requiring new or increased capacities from such lines, rather than placing the brunt of such costs on existing users of the lines; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Definitions. The following definitions apply to this act, unless the context clearly requires otherwise:

- (1) "Capital costs" means costs spent for upgrading, expanding and/or developing water and wastewater lines intended to serve the customers of the town's water and/or wastewater treatment system.
- (2) "Developer" means an individual, corporation, partnership, organization, association, firm, political subdivision, or other legal entity constructing or creating new construction.
- (3) "New construction" means any new development, construction, or installation that results in the use of the town's water and/or wastewater lines and includes current users of that system that require additional capacity from said lines.
- (4) "Capacity charge" means the charge imposed upon new construction as defined herein pursuant to the grant of regulatory authority contained herein.

Sec. 2. Subject to the conditions hereinafter set forth, a town may adopt an ordinance or ordinances imposing and collecting a regulatory fee defined herein as a "capacity charge" on developers of all new construction.

Sec. 3. The amount of each "capacity charge" imposed and collected shall be based upon reasonable and uniform consideration of capital costs ultimately to be incurred by the town as a result of the new construction, but the charge may differ from line to line. The "capacity charge" must bear a direct relationship to the additional or expanded capital costs incurred or ultimately to be incurred for the upgrading, expanding or developing of water and/or wastewater lines.

Sec. 4. The amount of each "capacity charge" shall be based on qualified needs and specific classifications and rates, which shall be uniformly applied to all members of a class; however, the town may vary the charges from line to line.

Sec. 5. Before adopting or amending any "capacity charge" ordinance authorized by this act, the town governing board shall hold a public hearing on it. A notice of the public hearing shall be given so as to conform with G.S. 160A-364, as it may be amended from time to time. No "capacity charge" ordinance shall be adopted or amended without first giving the planning board a reasonable opportunity to make comments and recommendations to the town governing board.

Sec. 6. Monies collected as "capacity charges" from a developer shall be placed in a separate trust fund. All such revenues shall be spent for the capital facilities for which they were collected.

Sec. 7. A cause of action as to the validity of any "capacity charge" adopted under this act shall be brought within 90 days after its assessment.

Sec. 8. The town is authorized to enact ordinances, resolutions, rules and regulations that are necessary or expedient to implement this act.

Sec. 9. The powers conferred in this act shall be supplementary to all other powers and procedures authorized by any other general or local law. Assessments, charges, fees, or rates authorized by any other general or local law are not affected by this act.

Sec. 10. This act applies to the Town of Benson only.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1989.