

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1336*

Short Title: Stormwater Utility Fees.

(Public)

Sponsors: Senators Odom and Rand.

Referred to: Agriculture/Environment/Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED TO
FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS, AS
RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-274 reads as rewritten:

"§ 153A-274. Public enterprise defined.

As used in this Article, 'public enterprise' includes:

(1) Water supply and distribution ~~systems,~~systems.

(2) Wastewater collection, treatment, and disposal systems of all types,
including septic tank systems or other on-site collection or disposal
facilities or ~~systems,~~systems.

(3) Solid waste collection and disposal systems and ~~facilities,~~facilities.

(4) ~~Airports,~~Airports.

(5) Off-street parking ~~facilities,~~facilities.

(6) Public transportation ~~systems,~~systems.

(7) ~~Structural~~Stormwater management programs designed to protect water
quality by controlling the level of pollutants in, and the quantity and
flow of, stormwater and structural and natural stormwater and drainage
systems of all types."

1 Section 2. G.S. 153A-277 reads as rewritten:

2 **"§ 153A-277. Authority to fix and enforce rates.**

3 (a) A county may establish and revise from time to time schedules of rents, rates,
4 fees, charges, and penalties for the use of or the services furnished by a public enterprise.
5 Schedules of rents, rates, fees, charges, and penalties may vary for the same class of
6 service in different areas of the county and may vary according to classes of service, and
7 different schedules may be adopted for services provided outside of the county. A county
8 may include a fee relating to subsurface discharge wastewater management systems and
9 services on the property tax bill for the real property where the system for which the fee
10 is imposed is located.

11 (a1) (1) Before it establishes or revises a schedule of rates, fees,
12 charges, or penalties for stormwater management programs and
13 structural and natural stormwater and drainage systems under this
14 section, the board of commissioners shall hold a public hearing on the
15 matter. A notice of the hearing shall be given at least once in a
16 newspaper having general circulation in the area, not less than seven
17 days before the public hearing. The hearing may be held concurrently
18 with the public hearing on the proposed budget ordinance.

19 (2) The fees established under this subsection must be made applicable
20 throughout the area of the county outside municipalities. Schedules of
21 rates, fees, charges, and penalties for providing stormwater management
22 programs and structural and natural stormwater and drainage system
23 service may vary according to whether the property served is residential,
24 commercial, or industrial property, the property's use, the size of the
25 property, the area of impervious surfaces on the property, the quantity
26 and quality of the runoff from the property, the characteristics of the
27 watershed into which stormwater from the property drains, and other
28 factors that affect the stormwater drainage system. Rates, fees, and
29 charges imposed under this subsection may not exceed the county's cost
30 of providing a stormwater management program and a structural and
31 natural stormwater and drainage system. The county's cost of providing
32 a stormwater management program and a structural and natural
33 stormwater and drainage system includes any costs necessary to assure
34 that all aspects of stormwater quality and quantity are managed in
35 accordance with federal and State laws, regulations, and rules.

36 (3) No stormwater utility fee may be levied under this subsection whenever
37 two or more units of local government operate separate stormwater
38 management programs or separate structural and natural stormwater and
39 drainage system services in the same area within a county. However,
40 two or more units of local government may allocate among themselves
41 the functions, duties, powers, and responsibilities for jointly operating a
42 single stormwater management programs and structural and natural
43 stormwater and drainage system service in the same area within a

1 county, provided that only one unit may levy a fee for the service within
2 the joint service area. For purposes of this subsection, a unit of local
3 government shall include a regional authority providing stormwater
4 management programs and structural and natural stormwater and
5 drainage system services.

6 (b) A county may collect delinquent accounts by any remedy provided by law for
7 collecting and enforcing private debts, and may specify by ordinance the order in which
8 partial payments are to be applied among the various enterprise services covered by a bill
9 for the services. A county may also discontinue service to a customer whose account
10 remains delinquent for more than 10 days. If a delinquent customer is not the owner of
11 the premises to which the services are delivered, the payment of the delinquent account
12 may not be required before providing services at the request of a new and different tenant
13 or occupant of the premises. If water or sewer services are discontinued for delinquency,
14 it is unlawful for a person other than a duly authorized agent or employee of the county to
15 reconnect the premises to the water or sewer system.

16 (c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case
17 a lien upon the property or premises served and, except as provided in subsection (d) of
18 this section, are legal obligations of the person contracting for them, provided that no
19 contract shall be necessary in the case of structural and natural stormwater and drainage
20 systems.

21 (d) Rents, rates, fees, charges, and penalties for enterprisory services are legal
22 obligations of the owner of the property or premises served when:

- 23 (1) The property or premises is leased or rented to more than one tenant and
24 services rendered to more than one tenant are measured by the same
25 meter; or
26 (2) Charges made for use of a sewerage system are billed separately from
27 charges made for the use of a water distribution system."

28 Section 3. G.S. 160A-311 reads as rewritten:

29 **"§ 160A-311. Public enterprise defined.**

30 As used in this Article, the term 'public enterprise' includes:

- 31 (1) Electric power generation, transmission, and distribution ~~systems;~~
32 systems.
33 (2) Water supply and distribution ~~systems;~~ systems.
34 (3) Wastewater collection, treatment, and disposal systems of all types,
35 including septic tank systems or other on-site collection or disposal
36 facilities or ~~systems;~~ systems.
37 (4) Gas production, storage, transmission, and distribution systems, where
38 systems shall also include the purchase ~~and/or~~ or lease of natural gas
39 fields and natural gas reserves, the purchase of natural gas supplies, and
40 the surveying, drilling and any other activities related to the exploration
41 for natural gas, whether within the State or ~~without;~~ without.
42 (5) Public transportation ~~systems;~~ systems.
43 (6) Solid waste collection and disposal systems and ~~facilities;~~ facilities.

- 1 (7) Cable television ~~systems;~~ systems.
2 (8) Off-street parking facilities and ~~systems;~~ systems.
3 (9) ~~Airports;~~ Airports.
4 (10) ~~Structural~~ Stormwater management programs designed to protect water
5 quality by controlling the level of pollutants in, and the quantity and
6 flow of, stormwater and structural and natural stormwater and drainage
7 systems of all types."

8 Section 4. G.S. 160A-314 reads as rewritten:

9 "**§ 160A-314. Authority to fix and enforce rates.**

10 (a) A city may establish and revise from time to time schedules of rents, rates,
11 fees, charges, and penalties for the use of or the services furnished by any public
12 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to
13 classes of service, and different schedules may be adopted for services provided outside
14 the corporate limits of the city.

15 (a1) (1) Before it establishes or revises a schedule of rates, fees,
16 charges, or penalties for stormwater management programs and
17 structural and natural stormwater and drainage systems under this
18 section, the city council shall hold a public hearing on the matter. A
19 notice of the hearing shall be given at least once in a newspaper
20 having general circulation in the area, not less than seven days before
21 the public hearing. The hearing may be held concurrently with the
22 public hearing on the proposed budget ordinance.

23 (2) The fees established under this subsection must be made applicable
24 throughout the area of the city. Schedules of rates, fees, charges, and
25 penalties for providing stormwater management programs and structural
26 and natural stormwater and drainage system service may vary according
27 to whether the property served is residential, commercial, or industrial
28 property, the property's use, the size of the property, the area of
29 impervious surfaces on the property, the quantity and quality of the
30 runoff from the property, the characteristics of the watershed into which
31 stormwater from the property drains, and other factors that affect the
32 stormwater drainage system. Rates, fees, and charges imposed under
33 this subsection may not exceed the city's cost of providing a stormwater
34 management program and a structural and natural stormwater and
35 drainage system. The city's cost of providing a stormwater management
36 program and a structural and natural stormwater and drainage system
37 includes any costs necessary to assure that all aspects of stormwater
38 quality and quantity are managed in accordance with federal and State
39 laws, regulations, and rules.

40 (3) No stormwater utility fee may be levied under this subsection whenever
41 two or more units of local government operate separate stormwater
42 management programs or separate structural and natural stormwater and
43 drainage system services in the same area within a county. However,

1 two or more units of local government may allocate among themselves
2 the functions, duties, powers, and responsibilities for jointly operating a
3 ~~single stormwater management program and~~ structural and natural
4 stormwater and drainage system service in the same area within a
5 county, provided that only one unit may levy a fee for the service within
6 the joint service area. For purposes of this subsection, a unit of local
7 government shall include a regional authority providing stormwater
8 management programs and structural and natural stormwater and
9 drainage system services.

10 (a2) A fee for the use of a disposal facility provided by the city may vary based on
11 the amount, characteristics, and form of recyclable materials present in solid waste
12 brought to the facility for disposal. This section does not prohibit a city from providing
13 aid to low-income persons to pay all or part of the cost of solid waste management
14 services for those persons.

15 (b) A city shall have power to collect delinquent accounts by any remedy provided
16 by law for collecting and enforcing private debts, and may specify by ordinance the order
17 in which partial payments are to be applied among the various enterprise services covered
18 by a bill for the services. A city may also discontinue service to any customer whose
19 account remains delinquent for more than 10 days. When service is discontinued for
20 delinquency, it shall be unlawful for any person other than a duly authorized agent or
21 employee of the city to do any act that results in a resumption of services. If a delinquent
22 customer is not the owner of the premises to which the services are delivered, the
23 payment of the delinquent account may not be required before providing services at the
24 request of a new and different tenant or occupant of the premises, but this restriction shall
25 not apply when the premises are occupied by two or more tenants whose services are
26 measured by the same meter.

27 (c) Except as provided in subsection (d) of this section and G.S. 160A-314.1,
28 rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations
29 of the person contracting for them, and shall in no case be a lien upon the property or
30 premises served, provided that no contract shall be necessary in the case of structural and
31 natural stormwater and drainage systems.

32 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal
33 obligations of the owner of the premises served when:

34 (1) The property or premises is leased or rented to more than one tenant and
35 services rendered to more than one tenant are measured by the same
36 meter.

37 (2) Charges made for use of a sewage system are billed separately from
38 charges made for the use of a water distribution system.

39 (e) Nothing in this section shall repeal any portion of any city charter inconsistent
40 herewith."

41 Section 5. This act is effective when it becomes law and applies retroactively
42 to 15 July 1989.