



HOUSE BILL 436: Local Government/Regulatory Fees.

2017-2018 General Assembly

Committee:	House State and Local Government I. If favorable, re-refer to Finance	Date:	April 4, 2017
Introduced by:	Rep. Stevens	Prepared by:	Giles Perry
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 436 prohibits county and city regulatory fees on new construction, and repeals specified local laws authorizing various fees on new construction.*

CURRENT LAW: G.S. 153A-331 and G.S. 160A-372 authorize cities and counties, as part of their subdivision ordinances, to require developers to provide: (1) Street ROWs, construction, or fees in lieu, (2) Dedication of utility ROWs, (3) Dedication of parkland or fees in lieu, (4) Construction of community service facilities, (5) reservation of school sites for later purchase.

County and city public enterprise statutes also authorize certain fees and charges related to public enterprise functions. Chapter 160A, Article 16; Chapter 153A, Article 15.

Several local acts, listed in House Bill 436, authorize various additional fees and charges related to new construction.

The North Carolina Courts have ruled there is no implied local government authority to charge school impact fees in several cases, including *Lanvale Properties, LLC v. County of Cabarrus*, 366 N.C. 142 (2012).

Most recently, the NC Supreme Court ruled that there is no implied local government authority to assess water and sewer impact fees on new development unless specifically authorized. *Quality Built Homes Incorporated and Stafford Land Company, Inc. v. Town of Carthage* 789 S.E.2d 454 (2016)

BILL ANALYSIS:

Section 1 and 2 of the add language to the statutes governing counties and cities to prohibit them from imposing a regulatory fee on new construction unless specifically authorized by general law.

"Regulatory fee", includes an impact fee, facility fee, project fee, capacity fee, or any other fee that requires a developer to pay an amount to help defray capital costs associated with new construction.

Section 3 of the bill repeals several local acts authorizing as variety of impact fees.

EFFECTIVE DATE: This act is effective when it becomes law.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
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