



HOUSE BILL 436: Local Government/Regulatory Fees.

**This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.**

2017-2018 General Assembly

Committee: House Finance	Date: April 20, 2017
Introduced by: Rep. Stevens	Prepared by: Greg Roney
Analysis of: First Edition	Committee Counsel

OVERVIEW: *House Bill 436 would prohibit 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 right of ways (ROWs), street 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.

NC 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 Inc. and Stafford Land Company, Inc. v. Town of Carthage, 789 S.E.2d 454 (2016).

BILL ANALYSIS:

Sections 1 and 2 would 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 would repeal several local acts authorizing a variety of impact fees.

EFFECTIVE DATE: House Bill 436 would be effective when it becomes law.

Giles Perry with the (Legislative Analysis Division substantially contributed to this summary.

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