

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 873
PROPOSED COMMITTEE SUBSTITUTE H873-PCS30430-ST-21

Short Title: System Development Fee/Clarify Time of Charge.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE TIMING OF COLLECTION OF SYSTEM DEVELOPMENT
3 FEES FOR EACH CATEGORY OF NEW DEVELOPMENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 162A-213 reads as rewritten:

6 "**§ 162A-213. Time for collection of system development fees.**

7 (a) Land Subdivision. – For new development ~~involving the subdivision of land, as~~
8 defined in G.S. 162A-201(6)a., the system development fee shall be collected by a local
9 governmental unit at the later of either of the following:

10 a. The time of plat recordation.

11 b. When water or sewer service is committed by the local governmental unit.

12 (b) ~~Other~~ New Construction Development. – For ~~all~~ other new ~~development,~~
13 development as defined by G.S. 163A-201(6)b. or c., the local governmental unit shall collect
14 the system development fee at the earlier of either of the following:

15 a. The time of application for connection of the individual unit of development
16 to the service or facilities.

17 b. When water or sewer service is committed by the local governmental unit.

18 (c) Reconstruction and Redevelopment. – For new development as defined by
19 G.S. 163A-201(6)d., the local governmental unit shall collect the system development fee at the
20 time of issuance of the permit under Part 4 of Article 18 of Chapter 153A of the General Statutes
21 or Part 5 of Article 19 of Chapter 160A of the General Statutes. If the local governmental unit
22 collecting the system development fee is not the same as the one issuing the permit under Part 4
23 of Article 18 of Chapter 153A of the General Statutes or Part 5 of Article 19 of Chapter 160A of
24 the General Statutes, the one issuing the permit shall notify the local governmental unit imposing
25 the fee of the application for a permit.

26 (d) Amount of Fee. – When imposing and collecting any system development fee, the
27 amount of the system development fee to be imposed is the system development fee, as adopted
28 by the local governmental unit, in effect on the date the system development fee is paid.

29 (e) Exception. – A system development fee shall not be charged or assessed on new
30 construction development as defined by G.S. 163A-201(6)b. or c. if both the following apply:

31 (1) The water or sewer lines were installed to the individual unit of development
32 prior to October 1, 2017, or tap fees were paid for the individual unit of
33 development prior to October 1, 2017.

34 (2) The local governmental unit did not impose a fee for capacity prior to October
35 1, 2017, or the facility was operated under Article 15 of Chapter 153A of the



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General Statutes or Article 16 of Chapter 160A of the General Statutes as of October 1, 2017."

SECTION 2. G.S. 162A-201 reads as rewritten:

"§ 162A-201. Definitions.

...

(2) Capital rehabilitation project. – Any repair, maintenance, modernization, upgrade, update, replacement, or correction of deficiencies of a facility, including any expansion or other undertaking to increase the preexisting level of service for ~~existing development~~.

(3) ~~Existing development. – Land and land subdivisions, structures, and land uses in existence at the start of the written system development fee analysis process required by G.S. 162A-205, no and more than one year prior to the adoption of a system development fee.~~

...

(6) New development. – Any of the following ~~occurring after the date a local government begins the written analysis process required by G.S. 162A-205, no more than one year prior to the adoption of a system development fee,~~ actions with respect to real property which increases the capacity necessary to serve that development:

a. The subdivision of land.

b. ~~The construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure~~ Initial construction on undeveloped property which increases the number of service units.

c. Any use or extension of the use of land which increases the number of service units.

d. Reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure on developed property which increases the number of service units.

...

(9) System development fee. – A charge or assessment for service imposed ~~with respect to~~ upon new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs, as provided in this Article. The term includes amortized charges, lump-sum charges, and any other fee that functions as described by this definition regardless of terminology. The term does not include any of the following:

a. A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development.

b. Tap or hookup charges for the purpose of reimbursing the local governmental unit for the actual cost of connecting the service unit to the system.

c. Availability charges.

d. Dedication of capital improvements on-site, adjacent, or ancillary to a development absent a written agreement providing for credit or reimbursement to the developer pursuant to G.S. 153A-280, 153A-451, 160A-320, 160A-499 or Part 3A of Article 18, Chapter 153A or Part 3D of Article 19, Chapter 160A of the General Statutes.

e. Reimbursement to the local governmental unit for its expenses in constructing or providing for water or sewer utility capital

1 improvements adjacent or ancillary to the development if the owner or
2 developer has agreed to be financially responsible for such expenses;
3 however, such reimbursement shall be credited to any system
4 development fee charged as set forth in G.S. 162A-207(c).

5"

6 **SECTION 3.** G.S. 162A-203(a) reads as rewritten:

7 "(a) A local governmental unit may adopt and impose a system development fee for water
8 or sewer service on new development only in accordance with the conditions and limitations of
9 this Article."

10 **SECTION 4.** G.S. 162A-205 reads as rewritten:

11 **"§ 162A-205. Supporting analysis.**

12 (a) A system development fee shall be calculated based on a written analysis, which may
13 constitute or be included in a capital improvements plan, that:

- 14 (1) Is prepared by a financial professional or a licensed professional engineer
15 qualified by experience and training or education to employ generally
16 accepted accounting, engineering, and planning methodologies to calculate
17 system development fees for public water and sewer systems.
- 18 (2) Documents in reasonable detail the facts and data used in the analysis and their
19 sufficiency and reliability.
- 20 (3) Employs generally accepted accounting, engineering, and planning
21 methodologies, including the buy-in, incremental cost or marginal cost, and
22 combined cost methods for each service, setting forth appropriate analysis as
23 to the consideration and selection of a method appropriate to the
24 circumstances and adapted as necessary to satisfy all requirements of this
25 Article.
- 26 (4) Documents and demonstrates the reliable application of the methodologies to
27 the facts and data, including all reasoning, analysis, and interim calculations
28 underlying each identifiable component of the system development fee and
29 the aggregate thereof.
- 30 (5) Identifies all assumptions and limiting conditions affecting the analysis and
31 demonstrates that they do not materially undermine the reliability of
32 conclusions reached.
- 33 (6) Calculates a final system development fee per service unit of new
34 development and includes an equivalency or conversion table for use in
35 determining the fees applicable for various categories of demand.
- 36 (7) Covers a planning horizon of not less than five years nor more than 20 years.
- 37 (8) Is adopted by resolution or ordinance of the local governmental unit in
38 accordance with G.S. 162A-209.

39 (b) For purposes of this section, new development shall include only that new
40 development occurring after the date a local government begins the written analysis process
41 required by G.S. 162A-205, no more than one year prior to the adoption of a system development
42 fee."

43 **SECTION 5.** G.S. 162A-209(b) reads as rewritten:

44 "(b) After expiration of the period ~~for posting~~, in subsection (a) of this section, the
45 governing body of the local governmental unit shall conduct a public hearing prior to considering
46 adoption of the ~~analysis with any modifications or revisions~~ system development fee. Notice of
47 the public hearing shall be published not less than 10 days nor more than 25 days before the date
48 fixed for the public hearing in a newspaper having general circulation in the area and may be
49 published on the Web site of the local government."

50 **SECTION 6.** This act becomes effective July 1, 2019.