

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 68  
HOUSE BILL 258

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

Whereas, rapid growth through the influx of new residents and new construction impose on the Town of Wendell increased capital costs necessary to insure that adequate capacities of treated water and wastewater for the customers of the Town of Wendell's system are protected and made available to the users of the town's facilities; and

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

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

Whereas, it is the intent of the General Assembly that the costs of protecting, upgrading, expanding and adding to the present water and wastewater treatment facilities be borne in part by those requiring new or increased capacities from such facilities, rather than placing the brunt of those costs on existing users of the facilities; 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 protecting, upgrading, expanding and/or developing new water treatment facilities and/or wastewater treatment facilities intended to serve the customers of the Town of Wendell'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 of Wendell's water treatment facilities or wastewater treatment facilities and includes current users of that system that require additional capacity from said water or wastewater treatment facilities.

(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 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. The "capacity charge" must bear a direct relationship to the additional or expanded capital costs incurred or ultimately to be incurred for the protecting, upgrading, expanding or developing of new water or wastewater treatment facilities to serve the town.

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 according to classes of service and may adopt different schedules of charges to be imposed upon new construction within the town limits versus new construction outside of the town limits.

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" 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 carry this act into execution and effect.

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 Wendell only.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of April, 1987.