

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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HOUSE BILL 908\*  
Committee Substitute Favorable 6/1/89

Short Title: Benson Capacity Charges.

(Local)

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Sponsors:

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Referred to:

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March 27, 1989

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THE TOWN OF BENSON TO IMPOSE WATER AND  
3 WASTEWATER LINE CAPACITY CHARGES.

4           Whereas, rapid growth through the influx of new construction imposes on the  
5 Town of Benson increased capital costs necessary to insure that adequate water and  
6 wastewater lines for the customers of the town's systems are made available to the users  
7 of the town's water and wastewater lines; and

8           Whereas, it is the purpose of this act to better enable the Town of Benson to  
9 accommodate orderly growth and development within its corporate limits and  
10 extraterritorial jurisdiction by providing them with new methods of regulating  
11 development to meet increased demands for the upgrading and future expansion of its  
12 water and wastewater lines; and

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

16           Whereas, it is the intent of the General Assembly that the costs of upgrading,  
17 expanding and adding to the present water and wastewater lines be borne in part by  
18 those requiring new or increased capacities from such lines, rather than placing the  
19 brunt of such costs on existing users of the lines; Now, therefore,  
20 The General Assembly of North Carolina enacts:

21           Section 1. Definitions. The following definitions apply to this act, unless the  
22 context clearly requires otherwise:

- 1 (1) " Capital costs"means costs spent for upgrading, expanding and/or  
2 developing water and wastewater lines intended to serve the customers  
3 of the town's water and/or wastewater treatment system.
- 4 (2) " Developer"means an individual, corporation, partnership,  
5 organization, association, firm, political subdivision, or other legal  
6 entity constructing or creating new construction.
- 7 (3) " New construction"means any new development, construction, or  
8 installation that results in the use of the town's water and/or  
9 wastewater lines and includes current users of that system that require  
10 additional capacity from said lines.
- 11 (4) " Capacity charge"means the charge imposed upon new construction  
12 as defined herein pursuant to the grant of regulatory authority  
13 contained herein.

14 Sec. 2. Subject to the conditions hereinafter set forth, a town may adopt an  
15 ordinance or ordinances imposing and collecting a regulatory fee defined herein as a  
16 "capacity charge"on developers of all new construction.

17 Sec. 3. The amount of each "capacity charge"imposed and collected shall be  
18 based upon reasonable and uniform consideration of capital costs ultimately to be  
19 incurred by the town as a result of the new construction, but the charge may differ from  
20 line to line. The "capacity charge"must bear a direct relationship to the additional or  
21 expanded capital costs incurred or ultimately to be incurred for the upgrading,  
22 expanding or developing of water and/or wastewater lines.

23 Sec. 4. The amount of each "capacity charge"shall be based on qualified  
24 needs and specific classifications and rates, which shall be uniformly applied to all  
25 members of a class; however, the town may vary the charges from line to line.

26 Sec. 5. Before adopting or amending any "capacity charge"ordinance  
27 authorized by this act, the town governing board shall hold a public hearing on it. A  
28 notice of the public hearing shall be given so as to conform with G.S. 160A-364, as it  
29 may be amended from time to time. No "capacity charge"ordinance shall be adopted or  
30 amended without first giving the planning board a reasonable opportunity to make  
31 comments and recommendations to the town governing board.

32 Sec. 6. Monies collected as "capacity charges"from a developer shall be  
33 placed in a separate trust fund. All such revenues shall be spent for the capital facilities  
34 for which they were collected.

35 Sec. 7. A cause of action as to the validity of any "capacity charge"adopted  
36 under this act shall be brought within 90 days after its assessment.

37 Sec. 8. The town is authorized to enact ordinances, resolutions, rules and  
38 regulations that are necessary or expedient to implement this act.

39 Sec. 9. The powers conferred in this act shall be supplementary to all other  
40 powers and procedures authorized by any other general or local law. Assessments,  
41 charges, fees, or rates authorized by any other general or local law are not affected by  
42 this act.

43 Sec. 10. This act applies to the Town of Benson only.

44 Sec. 11. This act is effective upon ratification.