

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 723  
Committee Substitute Favorable 5/3/91

Short Title: Durham City Changes.

(Local)

Sponsors:

Referred to:

April 11, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTIES FOR VIOLATING ORDINANCES OF THE CITY OF DURHAM, TO RAISE THE CITY'S FORMAL BID THRESHOLD, AND TO CHANGE THE DATE WHEN INTEREST ACCRUES ON AND A LIEN IS CREATED FOR A FACILITIES FEE IMPOSED BY THE CITY AND PAYABLE IN INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-4(a) reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, or town, he shall be guilty of a misdemeanor and shall be fined not more than ~~fifty dollars (\$50.00)~~, five hundred dollars (\$500.00), or imprisoned for not more than 30 days."

Sec. 2. Section 84(1) of Chapter 671 of the 1975 Session Laws, as added to the Charter of the City of Durham by Chapter 458 of the 1983 Session Laws, reads as rewritten:

"Sec. 84. **Public Contracts.**— (1) The statutory amounts in G.S. 143-129, relating to the awarding of public contracts, are amended so that the City Council, in awarding public contracts for the purchase of apparatus, supplies, materials, or equipment, is subject to the provisions of G.S. 143-129 only when such purchase requires an estimated expenditure of public funds in an amount equal to or more than ~~twenty thousand dollars (\$20,000)~~, thirty thousand dollars (\$30,000)."

1           Sec. 3. Section 115.6 of Chapter 671 of the 1975 Session Laws, as added to  
2 the Charter of the City of Durham by Chapter 802 of the 1987 Session Laws and  
3 amended by Chapter 476 of the 1989 Session Laws, reads as rewritten:

4       "Sec. 115.6. **Payment of Facilities Fees.** (a) The City Council may prescribe when  
5 and by whom a facilities fee authorized by this Article shall be paid. By way of  
6 illustration and not limitation, the City Council may require the payment of any  
7 applicable facilities fee by a developer as a condition precedent to the issuance of a  
8 building permit for the developer's new construction, or any part thereof.

9       (b) The City Council may permit the payment of a facilities fee in a lump sum or  
10 in equal monthly or annual installments over a period of time not to exceed five years.  
11 If paid in installments, such installments shall bear interest at a rate fixed by the City  
12 Council of not more than nine percent (9%) per annum from the date when ~~payment by~~  
13 ~~lump sum would have otherwise been due.~~ the City approves payment of the facilities fee  
14 in installments. The facilities fee, with accrued interest, may be paid in full at any time.

15       (c) If a facilities fee is to be paid in installments pursuant to subsection (b) of this  
16 section, then from and after the date when ~~payment by lump sum would have otherwise~~  
17 ~~been due,~~ the City approves payment of the facilities fee in installments, the fee shall be  
18 a lien on the property of the developer or other person against which the fee was  
19 imposed. The facilities fee lien shall be of the same nature and to the same extent as the  
20 lien for city and county property taxes. The lien shall be inferior to all prior and  
21 subsequent liens for State, local, and federal taxes, equal to liens of special assessments,  
22 and superior to all other liens and encumbrances.

23       (d) If any installment on a facilities fee is not paid when due, then all of the  
24 installments remaining unpaid shall immediately become due and payable, and the sums  
25 due may be collected by the same process and in the same manner as property taxes due  
26 upon the property subject to the lien. By way of illustration and not limitation, the  
27 property may be sold by the City under the same rules as are prescribed by law for the  
28 foreclosure and sale of land for unpaid property taxes. Foreclosure may be begun at any  
29 time following 30 days after the due date. The City shall not be entitled to a deficiency  
30 judgment in an action to foreclose a facilities fee lien.

31       (e) The City may not maintain an action or proceeding to enforce any remedy for  
32 the foreclosure of a facilities fee lien unless the action or proceeding is begun within the  
33 period of time prescribed by law for the foreclosure of special assessment liens.

34       (f) For purposes of this section, a 'facilities fee' includes both the fee as defined  
35 in Section 115.1(3) of this Charter and the capital facilities fees for water and sewer  
36 connections established by the City pursuant to authority conferred by Article 16 of  
37 Chapter 160A of the General Statutes."

38       Sec. 4. Section 1 of this act becomes effective 60 days after this act is ratified  
39 and applies to offenses committed on or after that date. Section 1 applies only to the  
40 City of Durham and only to those ordinances of the City of Durham that expressly  
41 provide that the maximum fine to be imposed for violation of a city ordinance is some  
42 amount of money greater than fifty dollars (\$50.00). The remainder of this act is  
43 effective upon ratification.