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John Hood's Daily Journal

Courting Impact Fees for Schools



By *John Hood*

February 19, 2004

RALEIGH -- Among local-government circles in North Carolina, the idea that cities and counties need more ways to tax their residents -- and even more so, if possible, their non-residents -- is an article of faith. The property tax, many contend, is insufficient to finance local services and unfairly apports the tax burden.

At or near the top of the wish list for many local officials would be for the North Carolina General Assembly to give them more authority to levy impact fees. These are lump-sum amounts, as opposed to annual levies, that localities can currently impose on new developments to finance services such as infrastructure that are affected by the addition of new homes and residents. The idea is that the impact fees, which in some communities can run into the thousands of dollars per home, will serve to compensate local governments for the marginal cost of expanding capacity to handle associated increases in traffic, utility demand, and other services.

Conceptually, impact fees make sense. Some policymakers maintain the fiction that these fees are paid entirely by developers and thus score some anti-growth demagoguery points with them. That doesn't make sense. Much if not all of the cost is really collected from homebuyers, often worked into the amount financed in their mortgages. The practice is defensible to the extent that these homebuyers are going to be immediately using services requiring long-term infrastructure, such as roads. Obviously, over time they will pay substantial property taxes, but so have other residents of the community who haven't moved into new developments. The public-finance issues are [rather complex](#), actually, but for certain infrastructure needs I'm convinced that modest, reasonable impact fees are an appropriate adjunct to traditional taxation. Growth should "pay for itself," as the saying goes, and usually does given the right set of tax policies.

The problem comes when localities, desperate to spend money without wanting to impose the cost on all taxpayers via property levies, seek to use impact fees to finance public services that don't have a straightward effect *at the margin* on service delivery, what is called a nexus. The most familiar example, and the one currently working its way through North Carolina political and judicial circles, is school construction.

Under the North Carolina constitution, public education is not just a business enterprise that happens to be operated at the present time by local monopoly school systems. It is an entitlement (though there is a lot of disagreement about how that tax-funded entitlement should be delivered, and by what mix of public and private providers). Purchasing a new home does not necessarily increase the demand for public education or the need for additional classroom space. Many homebuyers have no school-aged children, or educate their children privately, or have already lived in the community for a while and financed school construction directly (by paying their property taxes) or indirectly (by paying landlords who then pay property taxes on rental properties).

The logic behind impact fees for schools may be faulty, but the [political rationale](#) is obvious. After years of fruitlessly pushing for special legislation authorizing impact fees for schools, Durham County decided last year simply to [enact them](#) and defend the action in an inevitable lawsuit. Now, I'm told that the North Carolina Association of County Commissioners is encouraging its members to pass resolutions in solidarity with Durham. Just this week, Granville County commissioners [voted to do so](#).

I support local governments' right to challenge any action of state politicians that violates the state constitution, such as Gov. Mike Easley's [seizure of local tax sharing and reimbursement funds](#). But in this case, localities appear to want the courts to sanction their extra-constitutional actions because they haven't gotten the legislation they wanted from the state.

Sorry, but impact-fee proliferation is not a cause I think should be courted.

Hood is president of the John Locke Foundation and publisher of Carolina Journal.

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