
1 **R2021-27: A RESOLUTION TO EXPRESS THE MYRTLE BEACH CITY**
2 **COUNCIL’S REQUEST THAT THE SOUTH CAROLINA GENERAL**
3 **ASSEMBLY TAKE THE NECESSARY ACTIONS TO CONTINUE TO**
4 **ALLOW LOCAL GOVERNMENTS TO COLLECT USER FEES THAT FUND**
5 **CRITICAL NEEDS SUCH AS PUBLIC SAFETY AND**
6 **INFRASTRUCTURE.**

7 **Applicant/Purpose:** Staff / to express City Council’s desire to request the SC General
8 Assembly take the necessary actions to continue to allow local governments to collect
9 user fees.

10
11 **Brief:**

- 12 • A recent SC Supreme Court decision, *Burns v. Greenville*, invalidated certain
13 user fees.
- 14 • Heretofore cities and counties were specifically granted the authority to impose
15 uniform service charges in §4-9-30 and road fees were specifically considered
16 and deemed allowed by the South Carolina Supreme Court in *Brown v. County of*
17 *Horry* (1992)
- 18 • In 1997, the General Assembly enacted §6-1-300(6), which defines “service or
19 user fee” as “a charge required to be paid in return for a particular government
20 service or program made available to the payer that benefits the payer in some
21 manner different from the members of the general public not paying the fee”
- 22 • Relying on this section, the SC Supreme Court ruled Greenville County’s road
23 fee ordinance invalid as it determined that the county’s residents who pay the
24 user fee receive the same benefit as the non-payers

25
26 **Issues:**

- 27 • The *Burns* decision puts user fees, including those that have been in place for
28 decades, in jeopardy which could result in the loss of millions of dollars in cities
29 and county revenues throughout South Carolina

30
31 **Public Notification:** Normal meeting notification.

32
33 **Alternatives:**

- 34 • Do not pass resolution.
- 35 • Amend resolution.

36
37 **Financial Impact:**

- 38 • The City collects \$1,200,000 - \$1,300,000 annually from the Horry County Road
39 Fee. If the SC Legislature does not remedy this issue the City will be in
40 jeopardy of losing this funding.

41
42 **Manager’s Recommendation:** I recommend approval.

43
44 **Attachment(s):** Proposed resolution.

RESOLUTION R2021-27

CITY OF MYRTLE BEACH)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA)

A RESOLUTION TO EXPRESS THE MYRTLE BEACH CITY COUNCIL'S REQUEST THAT THE SOUTH CAROLINA GENERAL ASSEMBLY TAKE THE NECESSARY ACTIONS TO CONTINUE TO ALLOW LOCAL GOVERNMENTS TO COLLECT USER FEES THAT FUND CRITICAL NEEDS SUCH AS PUBLIC SAFETY AND INFRASTRUCTURE.

WHEREAS, the City of Myrtle Beach and Horry County, along with the vast majority of citizens, acknowledge that as a result of the recent SC Supreme Court decision in *Burns v. Greenville County Council* (2021), and revenues lost due to the COVID-19 pandemic, cities and counties throughout the state have been and will continue to struggle funding critical needs such as public safety and infrastructure; and

WHEREAS, cities and counties were specifically granted the authority to impose uniform service charges in §4-9-30 and road fees were specifically considered and deemed allowed by the South Carolina Supreme Court in *Brown v. County of Horry* (1992); and

WHEREAS, in 1997, the South Carolina General Assembly enacted §6-1-300(6), which defines "service or user fee" as "a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee"; and

WHEREAS, relying on this code section, the South Carolina Supreme Court ruled Greenville County's road fee ordinance invalid as it determined that the county's residents who pay the user fee receive the same benefit as the non-payers; and

WHEREAS, the *Burns* decision potentially puts user fees, including those that have been in place for decades, in jeopardy which could result in the loss of millions of dollars in cities and county revenues throughout South Carolina; and

WHEREAS, one solution to this issue would be for the SC General Assembly to amend §6-1-300(6) to allow cities and counties to have the option to utilize user fees that benefit the payer in some manner different from or greater than the members of the general public not paying the fee; and

WHEREAS, the above solution does not increase cities and counties' revenue-raising authority beyond its ability prior to the recent *Burns* decision and therefore does not constitute a "new fee or tax"; and

WHEREAS, another potential solution would be to amend §6-1-300(6) to state that "the general public may derive a benefit from the fee as long as the substantial benefit goes to the payer"; and

WHEREAS, to validate previously imposed uniform service charges that were imposed pursuant to the criteria set forth in *Brown v. County of Horry* (1992) and *Campbell v. City of Charleston*

1 (1997), §6-1-330 should be amended to state that, "A fee adopted or imposed by a local governing
2 body prior to June 30, 2021, remains in full force and effect until repealed by the enacting local
3 governing body, notwithstanding the provisions of this section."

4 NOW THEREFORE, BE IT RESOLVED by the Myrtle Beach City Council that it is in support of
5 legislation that would preserve user fees as they are a vital source of local revenue and requests
6 that all members of the South Carolina General Assembly take action to ensure that Home Rule
7 is protected and that appropriate legislation is enacted to preserve this important county financial
8 resource during the 124th Session of the General Assembly.
9

10

11 SIGNED, SEALED and DATED on this 14th day of September.

12

13 ATTEST:

14

15

16

BRENDA BETHUNE, MAYOR

17

18

19 _____
JENNIFER ADKINS, CITY CLERK