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**HOUSE BILL NO. 307**

Offered January 14, 2004

Prefiled January 9, 2004

*A BILL to amend the Code of Virginia by adding in Chapter 2 of Title 22.1 sections numbered 22.1-20.1, 22.1-20.2, and 22.1-20.3, relating to adequacy of public education facilities in local school divisions.*

Patrons—Marshall, R.G., Cole and Sickles

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 22.1 sections numbered 22.1-20.1, 22.1-20.2, and 22.1-20.3 as follows:**

*§ 22.1-20.1. Comprehensive assessment of public schools.*

*A. The Board shall undertake a comprehensive assessment process to determine the adequacy of public education infrastructure in each school division in the Commonwealth. The factors to be considered by the Board in performing each local assessment shall include, but not be limited to the following:*

- 1. The state and condition of existing public education facilities in the school division;*
- 2. Recent population growth trends and estimates of population growth in the local school division;*
- 3. Per capita rate of residential development in the school division for the previous five years, and projections of such rates over the next five years; and*
- 4. Provisions in the local budget or capital improvement plan relating to public school construction or improvements to existing public education capital infrastructure.*

*B. Each locality, local school division, and local school board shall provide in a timely manner all relevant information requested by the Board, and shall cooperate fully with the Board in conducting the assessment. Based upon the established criteria and final results of the assessment, the Board shall issue written recommendations to each local school board setting forth its findings as to the adequacy of the public education infrastructure in the local school division.*

*§ 22.1-20.2. Inadequacy of local public education infrastructure.*

*Upon a determination by the Board that a local school division's public education facilities are not adequate to serve its current population, or will be inadequate within the next five years, the Board shall notify the local school board of this in writing, whereupon the local school board shall have one calendar year from receipt of such notification within which to establish, and submit for the Board's approval, a program to achieve adequacy within the next five years. If after reviewing the local school board's program, the Board determines that local public education facilities are still inadequate or will be inadequate within five years of the original determination of inadequacy, or if the local school board fails to submit a program within one year of notification, then pursuant to § 22.1-20.3 the Board shall establish and apply a public education residential development impact fee in the local school division.*

*§ 22.1-20.3. Public education residential development impact fee.*

*A. Upon a determination of inadequacy and failure to cure pursuant to § 22.1-20.2, the Board shall establish and collect a fee from the builder of each new residential unit constructed in the local school division until such time as the Board determines that the public education facilities are adequate and are likely to remain adequate for at least the next five years. The fee shall be based upon criteria to be established by the Board, including, but not limited to the following:*

- 1. The pro-rata impact of each additional residential unit on existing public education facilities, and*
- 2. The pro-rata impact of each additional residential unit on the costs of improving existing or constructing new public education facilities in order to adequately meet the needs of such new residential development.*

*B. The Board shall hold all fees collected under this section in a special interest-bearing account on behalf of the local school division within the Virginia Public School Construction Grants Fund established pursuant to § 22.1-175.2, or shall deposit such funds in the local Capital School Projects Fund, if established by the relevant local governing body or bodies pursuant to § 22.1-175.5. Disbursements shall be made in accordance with the provisions of the applicable fund.*

*C. Upon a determination by the Board that the local school division's public education facilities are adequate and are likely to remain adequate for at least the next five years, the Board shall cease to collect the impact fee, and shall release to the relevant local governing body or bodies all funds that may remain in the Fund or account.*

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59       D. Any local school division subject to a determination of inadequacy and the imposition of the  
60 impact fee provisions under this chapter may appeal to the Board for reconsideration no more than  
61 once in any given year. If the Board finds its assessment to be in error, it shall terminate the imposition  
62 of the impact fee provisions.

63       E. The Board is authorized to promulgate regulations necessary for the implementation of the Act.  
64 Such regulations shall be consistent with the provisions of this section and shall include, but not be  
65 limited to (i) the criteria and process used by the Board in performing local adequacy assessments and  
66 (ii) the minimum standards that each local school division must meet in order for its public education  
67 facilities to be deemed adequate.