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HOUSE BILL NO. 1667

Offered January 10, 2007

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A BILL to impose impact fees against new development in certain portions of Loudoun County.

Patron—Marshall, R.G.

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. § 1. A.** *As used in this section, unless the context requires a different meaning:*

"Cost" includes, in addition to all labor, materials, machinery, and equipment for construction, (i) acquisition of land, rights-of-way, property rights, easements, and interests, including the costs of moving or relocating utilities; (ii) demolition or removal of any structure on land so acquired, including acquisition of land to which such structure may be moved; (iii) survey, engineering, and architectural expenses; (iv) legal, administrative, and other related expenses; and (v) interest charges and other financing costs if impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by the locality to finance the road improvement.

"Impact fee" means a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of reasonable road improvements necessitated by and attributable to the new development. Impact fees may not be assessed and imposed for road repair, operation, and maintenance, nor to expand existing roads to meet demand which existed prior to the new development.

"Impact fee service area" means land designated by the Virginia Department of Transportation within a locality, having clearly defined boundaries and clearly related traffic needs and within which development is to be subject to the assessment of impact fees.

"Road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the Virginia Department of Transportation to meet increased demand attributable to new development. Road improvements do not include on-site construction of roads which a developer may be required to provide pursuant to §§ 15.2-2241 through 15.2-2245.

B. In addition to the duties set forth in §§ 33.1-12 and 33.1-12.01 of the Code of Virginia, and notwithstanding the provisions of Article 8 (§15.2-2317 et seq.) of Chapter 22 of Title 15.2, the Commonwealth Transportation Board shall assess and impose reasonable impact fees to be collected by the Virginia Department of Transportation on new development or new subdivisions that abut, are adjacent to, or are alongside U.S. Route 50 in Loudoun County between U.S. Route 15 and the Fairfax County line. Such impact fees shall be used to pay all or a part of the cost of reasonable road improvements, as defined by § 15.2-2318, that are (i) attributable in substantial part to the new development or new subdivision and (ii) necessary to render such portion of U.S. Route 50 operable at the Level of Service, as that term is described in the Highway Capacity Manual, that existed as of January 1, 2007.

C. The Virginia Department of Transportation shall hold a duly advertised public hearing; the public hearing shall identify the areas that abut, are adjacent to, or are alongside U.S. Route 50 in Loudoun County between U.S. Route 15 and the Fairfax County line and for which an impact fee shall be imposed.

D. The amount of impact fees to be imposed on a specific development or subdivision shall be determined before or at the time the locality approves the site plan or subdivision but after the Virginia Department of Transportation completes its final review of the plan of development, site plan, or subdivision plat, as the case may be, pursuant to § 15.2-2222.1. No locality shall issue a building permit for any building or structure that abuts, is adjacent to, or is alongside U.S. Route 50 in Loudoun County between U.S. Route 15 and the Fairfax County line until the locality either (i) collects such impact fee and deposits such impact fee in accordance with subsection F or (ii) directs the developer or subdivider to pay such impact fee to the Virginia Department of Transportation, provided the developer or subdivider has previously made a significant showing to the locality of its ability to pay such impact fee. The maximum impact fee to be imposed shall be determined (i) by dividing projected road improvement costs in the impact fee service area when fully developed by the number of projected service units when fully developed, or (ii), for a reasonable period of time, but not less than 10 years, by dividing the projected costs necessitated by development in the next 10 years by the service units projected to be created in the next 10 years. For purposes of this section, a "service unit" is a standardized measure of traffic use or generation. The Virginia Department of Transportation shall

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59 develop a table or method for attributing service units to various types of development and land use,
60 including but not limited to residential, commercial, and industrial uses. The table shall be based upon
61 the ITE manual (published by the Institute of Transportation Engineers) or locally conducted trip
62 generation studies

63 The Commonwealth Transportation Board shall provide for appeals from administrative
64 determinations regarding the impact fees to be imposed; the Commonwealth Transportation Board may
65 provide for the resolution of disputes over an impact fee by arbitration or otherwise.

66 No impact fees shall be assessed or imposed upon a development or subdivision if (i) the subdivider
67 or developer has proffered conditions pursuant to §§ 15.2-2298 or 15.2-2303 for off-site road
68 improvements and the proffered conditions have been accepted by the local government or (ii) Loudoun
69 County has assessed and imposed impact fees upon such development or subdivision pursuant to Article
70 8 (§ 15.2-2317 et seq.) of Chapter 22 of Title 15.2 of the Code of Virginia.

71 E. The value of any dedication, contribution, or construction from the developer for off-site road
72 improvements that abut, are adjacent to, or are alongside U.S. Route 50 in Loudoun County between
73 U.S. Route 15 and the Fairfax County line shall be treated as a credit against the impact fees imposed
74 on the developer's project. The Virginia Department of Transportation may provide for credits for
75 approved on-site improvements in excess of those required by the development.

76 The Virginia Department of Transportation also shall calculate and credit against impact fees the
77 extent to which (i) developments have already contributed to the cost of existing roads that will serve
78 the development, (ii) new development will contribute to the cost of existing roads, and (iii) new
79 development will contribute to the cost of road improvements in the future other than through impact
80 fees.

81 F. A separate road improvement account shall be established for the area that abuts, is adjacent to,
82 and is alongside U.S. Route 50 in Loudoun County between U.S. Route 15 and the Fairfax County line;
83 all funds collected through impact fees shall be deposited in the interest-bearing account. Interest
84 earned on deposits shall become funds of the account. The expenditure of funds from the account shall
85 be only for road improvements that abut, are adjacent to, or are alongside U.S. Route 50 in Loudoun
86 County between U.S. Route 15 and the Fairfax County line.

87 G. The Virginia Department of Transportation shall refund any impact fee or portion thereof for
88 which construction of a project is not completed within a reasonable period of time, not to exceed 15
89 years. Upon completion of a project, the Virginia Department of Transportation shall recalculate the
90 impact fee based on the actual cost of the improvement. It shall refund the difference if the impact fee
91 paid exceeds actual cost by more than 15 percent. Refunds shall be made to the record owner of the
92 property at the time the refund is made.