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HOUSE BILL NO. 3197**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Transportation
on February 3, 2007)

(Patrons Prior to Substitute—Delegates Athey and Frederick [HB 3159])

A BILL to amend and reenact § 15.2-2403 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 9, consisting of sections numbered 15.2-2328 and 15.2-2329, and by adding in Article 1 of Chapter 24 of Title 15.2 a section numbered 15.2-2403.1, relating to urban transportation service districts; impact fees.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2403 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 9, consisting of sections numbered 15.2-2328 and 15.2-2329, and by adding in Article 1 of Chapter 24 of Title 15.2 a section numbered 15.2-2403.1 as follows:

*Article 9.
Impact Fees.*

§ 15.2-2328. Applicability of article.

The provisions of this article shall apply in their entirety to any locality that has established an urban transportation service district in accordance with § 15.2-2403.1. However, such authority may be exercised only in areas outside of urban transportation service districts and on parcels that are currently zoned agricultural and are being subdivided for by-right residential development. The authority granted under this article shall expire on July 1, 2009, for any locality that has not established an urban transportation service district and adopted an impact fee ordinance pursuant to this article by such date.

§ 15.2-2329. Imposition of impact fees.

A. Any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees to cover the costs of issuing permits for residential uses in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development.

B. Impact fees imposed and collected pursuant to this section shall only be used for public facilities that are impacted by development; however, the fees may be used generally in the areas of development in the locality.

C. A locality imposing impact fees as provided in this section shall allow credit against the impact fees for cash proffers collected for the purpose of defraying the capital costs of public facilities related to the residential development. A locality imposing impact fees as provided in this section shall also include within its comprehensive plan a methodology for calculating credit for the value of proffered land donations to accommodate public facilities, and for the construction cost of any public facilities or public improvements the construction of which is required by proffer.

D. A locality imposing impact fees under this section may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.

E. For the purposes of this section, "public facilities" shall be deemed to include: (i) roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways; (ii) stormwater collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements; (iii) parks, open space, and recreation areas and related facilities; (iv) public safety facilities, including police, fire, emergency medical, and rescue facilities; (v) primary and secondary schools and related facilities; and (vi) libraries and related facilities.

§ 15.2-2403. Powers of service districts.

After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, including but not limited to water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; control of infestations of insects that may carry a disease that is dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.1-188.20 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection

60 services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50
61 percent of the property owners who own not less than 50 percent of the property to be served,
62 construction, maintenance, and general upkeep of streets and roads ~~that are not under the operation and~~
63 ~~jurisdiction of the Virginia Department of Transportation;~~ *construction, maintenance, and general upkeep*
64 *of streets and roads through creation of urban transportation service districts created pursuant to*
65 *§ 15.2-2403.1;* and other services, events, or activities that will enhance the public use and enjoyment of
66 and the public safety, public convenience, and public well-being within a service district. Such services,
67 events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual,
68 business or other private entity.

69 2. To provide, in addition to services authorized by subdivision 1, transportation and transportation
70 services within a service district, including, but not limited to: public transportation systems serving the
71 district; transportation management services; road construction; rehabilitation and replacement of existing
72 transportation facilities or systems; and sound walls or sound barriers. However, any transportation
73 service, system, facility, roadway, or roadway appurtenance established under this subdivision that will
74 be operated or maintained by the Virginia Department of Transportation shall be established with the
75 involvement of the governing body of the locality and meet the appropriate requirements of the
76 Department. The proceeds from any annual tax or portion thereof collected for road construction
77 pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is
78 necessary to finance such construction; however, the governing body or bodies shall make available an
79 annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set
80 aside to finance such road construction.

81 3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title,
82 interest or easements therefor in and to real estate in such district and maintain and operate the same as
83 may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and
84 2.

85 4. To contract with any person, municipality or state agency to provide the governmental services
86 authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities
87 and equipment as may be necessary and desirable in connection therewith.

88 5. To require owners or tenants of any property in the district to connect with any such system or
89 systems, and to contract with the owners or tenants for such connections. The owners or tenants shall
90 have the right of appeal to the circuit court within 10 days from action by the governing body.

91 6. To levy and collect an annual tax upon any property in such service district subject to local
92 taxation to pay, either in whole or in part, the expenses and charges for providing the governmental
93 services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such
94 facilities and equipment as may be necessary and desirable in connection therewith; however, such
95 annual tax shall not be levied for or used to pay for schools, police, or general government services not
96 authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the
97 same to be expended in the district in which raised. In addition to the tax on property authorized herein,
98 in any city having a population of 350,000 or more and adjacent to the Atlantic Ocean, the city council
99 shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and
100 travel campgrounds, within such service district at a rate or percentage not higher than five percent
101 which is in addition to any other transient room rental tax imposed by the city. The proceeds from such
102 additional transient room rental tax shall be deposited in a special fund to be used only for the purpose
103 of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this
104 subdivision may base the tax on the full assessed value of the taxable property within the service
105 district, notwithstanding any special use value assessment of property within the service district for land
106 preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner
107 of such property has given written consent. In addition to the taxes and assessments described herein, a
108 locality creating a service district may contribute from its general fund any amount of funds it deems
109 appropriate to pay for the governmental services authorized by subdivisions 1, 2, and 11 of this section.

110 7. To accept the allocation, contribution or funds of, or to reimburse from, any available source,
111 including, but not limited to, any person, authority, transportation district, locality, or state or federal
112 agency for either the whole or any part of the costs, expenses and charges incident to the acquisition,
113 construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or
114 maintenance of any facilities and services in the district.

115 8. To employ and fix the compensation of any technical, clerical, or other force and help which from
116 time to time, in their judgment may be necessary or desirable to provide the governmental services
117 authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such
118 facilities and equipment as may be necessary or desirable in connection therewith.

119 9. To create and terminate a development board or other body to which shall be granted and
120 assigned such powers and responsibilities with respect to a special service district as are delegated to it
121 by ordinance adopted by the governing body of such locality or localities. Any such board or alternative

body created shall be responsible for control and management of funds appropriated for its use by the governing body or bodies, and such funds may be used to employ or contract with, on such terms and conditions as the board or other body shall determine, persons, municipal or other governmental entities or such other entities as the development board or alternative body deems necessary to accomplish the purposes for which the development board or alternative body has been created. If the district was created by court order, the ordinance creating the development board or alternative body may provide that the members appointed to the board or alternative body shall consist of a majority of the landowners who petitioned for the creation of the district, or their designees or nominees.

10. To negotiate and contract with any person or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the district.

11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.). Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of condemnation to acquire any interest in land for the purposes of this subdivision.

12. To contract with any state agency or state or local authority for services within the power of the agency or authority related to the financing, construction, or operation of the facilities and services to be provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its general tax revenues, or to pledge its full faith and credit.

13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and removal of skunks and the conditions that harbor them.

§ 15.2-2403.1. Creation of urban transportation service districts.

A. The boundaries of any urban transportation service district created pursuant to this article shall be agreed upon by both the local governing body of an urban county and by the Virginia Department of Transportation. The overall density of an urban transportation service district shall be one residential unit per acre or greater. Any disagreement over such boundaries shall be mediated by and, if necessary, decided by the Commission on Local Government. For purposes of this section, an "urban county" means any county with a population of greater than 90,000 that did not maintain its roads as of January 1, 2007.

B. Any urban county that has established an urban transportation service district in accordance with this section shall receive an amount equal to the per lane mile maintenance payments made to cities and certain towns pursuant to § 33.1-41.1 for the area within the district for purposes of road maintenance. In addition, such locality shall receive an amount equal to the difference between the maintenance payments made to cities and certain towns pursuant to § 33.1-41.1 and what VDOT would be spending within the service district if not for the creation of such district. Such money may be spent by the locality on any transportation need, including new construction.

C. In any instance in which a locality has taken over road maintenance within an urban transportation service district pursuant to this section, the Virginia Department of Transportation shall transfer the surplus equipment that is no longer needed for such road maintenance from the Virginia Department of Transportation to the locality.