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SENATE BILL NO. 222

Offered January 13, 2010
Prefiled January 12, 2010

A BILL to amend and reenact § 15.2-2222.1 of the Code of Virginia, relating to fees for Department of Transportation land use review.

Patrons—Puller; Delegate: Surovell

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2222.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2222.1. Coordination of state and local transportation planning.

A. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223, any part of a comprehensive plan pursuant to § 15.2-2228, or any amendment to any comprehensive plan as described in § 15.2-2229, the locality shall submit such plan or amendment to the Department of Transportation for review and comment if the plan or amendment will substantially affect transportation on state controlled highways as defined by regulations promulgated by the Department. The Department's comments on the proposed plan or amendment shall relate to plans and capacities for construction of transportation facilities affected by the proposal. Within 30 days of receipt of such proposed plan or amendment, the Department may request, and the locality shall agree to, a meeting between the Department and the local planning commission or other agent to discuss the plan or amendment, which discussions shall continue as long as the participants may deem them useful. The Department shall make written comments within 90 days after receipt of the plan or amendment, or by such later deadline as may be agreed to by the parties in the discussions.

B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of Transportation within 10 business days of receipt thereof if the proposal will substantially affect transportation on state-controlled highways. Such application shall include a traffic impact statement if required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days of its receipt of such traffic impact statement, the Department shall either (i) provide written comment on the proposed rezoning to the locality, or (ii) schedule a meeting, to be held within 60 days of its receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and guidelines of the Department, engineering and design considerations, any adopted regional or statewide plans and short and long term traffic impacts on and off site. The Department shall complete its initial review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives the rezoning proposal from the locality.

C. When a locality receives a subdivision plat pursuant to § 15.2-2258 or 15.2-2260, or a site plan or plan of development pursuant to subdivision A 8 of § 15.2-2286, the locality shall submit such plat or plan to the Department of Transportation in accordance with § 15.2-2260 within 10 business days if the plat or plan substantially affects transportation on state-controlled highways as defined by regulations promulgated by the Department. Such plat or plan shall include supplemental traffic analysis if required by local ordinance or resolution or pursuant to regulations promulgated by the Department. Within 30 days of its receipt of such plat or plan, the Department shall either (i) provide written comment on the plat or plan, or (ii) schedule a meeting, to be held within 60 days of the Department's receipt of the plat or plan, with members of the local planning commission or other agent of the locality to discuss potential modifications to the plat or plan to address any concerns or deficiencies. The Department's comments on the plat or plan shall be based upon the comprehensive plan, regulations or guidelines of the Department, engineering and design considerations, any adopted statewide or regional plans and short and long term traffic impacts on and off site. The Department shall complete its final review within 90 days after it receives such plat or plan from the locality. The submission of the application to the Department shall toll all times for local review set out in this chapter until the locality has received the Department's final comments.

D. If a locality has not received written comments within the timeframes specified in subsections B or C, the locality may assume that the Department has no comments.

E. The review requirements set forth in this section shall be supplemental to, and shall not affect, any requirement for review by the Department of Transportation or the locality under any other

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provision of law. Nothing in this section shall be deemed to prohibit any additional consultations concerning land development or transportation facilities that may occur between the Department and localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

F. The Department shall impose fees and charges for the review of applications, plans and plats pursuant to paragraphs A, B, and C, and such fees and charges shall not exceed $1,000 for each review. *However, no fee shall be charged to a locality or other public agency. Furthermore, no fee shall be charged by the Department to a citizens' organization, neighborhood association or similar nonprofit organization that proposes comprehensive plan amendments through its local planning commission or local governing body.*

G. Citizens' organizations, neighborhood associations or similar nonprofit organizations that propose comprehensive plan amendments through its local planning commission or local governing body shall be exempt from conducting a traffic impact analysis, including the submission of required documentation outlined in the traffic impact analysis regulations at the time of the comprehensive plan amendment submission. The traffic impact analysis documentation shall be required at the time of the rezoning or site plan submission and shall be the obligation of the developer or land owner, or the county in which the property is located.

~~G~~*H.* Until July 1, 2008, the Department shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq.) in promulgating regulations pursuant to this section, and the Commonwealth Transportation Commissioner may phase the implementation of regulations promulgated pursuant to this section as he may deem appropriate.