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SENATE BILL NO. 550

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 15.2-2222.1 and 15.2-2223 of the Code of Virginia, relating to coordination of state and local transportation planning.

Patrons—Barker, Colgan and Puller

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2222.1 and 15.2-2223 of the Code of Virginia are 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 *and the Department of Rail and Public Transportation* for review and comment if the plan or amendment will substantially affect *either* transportation on state controlled highways *or mass transit operations* as defined by regulations promulgated by the Department *of Transportation or the Department of Rail and Public Transportation*. ~~The~~ *Either* Department's comments on the proposed plan or amendment shall relate to plans and capacities for construction of transportation facilities *or mass transit operations* affected by the proposal. Within 30 days of receipt of such proposed plan or amendment, ~~the~~ *either* 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~~ *and* 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 *and the Department of Rail and Public Transportation* within 10 business days of receipt thereof if the proposal will substantially affect *either* transportation on state-controlled highways *or mass transit operations*. Such application shall include a traffic impact statement if required by local ordinance or pursuant to regulations promulgated by the Department *of Transportation or the Department of Rail and Public Transportation*. Within 45 days of its receipt of such traffic impact statement, the Department *of Transportation and the Department of Rail and Public Transportation* 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~~ *their* 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~~ *Departments'* comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and guidelines of the ~~Department~~ *Departments*, engineering and design considerations, any adopted regional or statewide plans, *mass transit operations,* and short and long term traffic impacts on and off site. The ~~Department~~ *Departments* shall complete ~~its~~ *their* initial review of the rezoning proposal within 45 days, and ~~its~~ *their* final review within 120 days, after ~~it receives~~ *they receive* 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 *and the Department of Rail and Public 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 *of Transportation or mass transit operations as defined by regulations promulgated by the Department of Rail and Public Transportation*. Such plat or plan shall include supplemental traffic *or mass transit operation* analysis if required by local ordinance or resolution or pursuant to regulations promulgated by the Department *of Transportation or the Department of Rail and Public Transportation*. Within 30 days of ~~its~~ *their* receipt of such plat or plan, the ~~Department~~ *Departments* 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~~ *Departments'* 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~~ *Either or both Departments'* comments on the plat or plan shall be based

upon the comprehensive plan, regulations, or guidelines of ~~the~~ *either* Department, engineering and design considerations, any adopted statewide or regional plans and short and long term traffic impacts *and mass transit operation impacts* on and off site. The ~~Department~~ *Departments* shall complete ~~its~~ *their* final review within 90 days after ~~it receives~~ *they receive* such plat or plan from the locality. The submission of the application to the ~~Department~~ *Departments* shall toll all times for local review set out in this chapter until the locality has received the ~~Department's~~ *Departments'* 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~~ *neither* Department has ~~no~~ *any* 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, *the Department of Rail and Public Transportation,* or the locality under any other provision of law. Nothing in this section shall be deemed to prohibit any additional consultations concerning land development, *mass transit operations,* or transportation facilities that may occur between the Department *of Transportation or the Department of Rail and Public Transportation* and localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

F. The Department *of Transportation and the Department of Rail and Public Transportation* 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.

~~G. 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.~~

§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure *and mass transit* needs and recommendations that may include the designation of new and expanded transportation *and mass transit* facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and ~~public transportation~~ *mass transit* facilities. The plan should recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. The Virginia Department of Transportation *and the Virginia Department of Rail and Public Transportation* shall, upon request, provide localities with technical assistance in preparing such transportation plan.

The plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable ground water protection measures;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

The plan shall include: the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

The plan shall include: a map that shall show road improvements and transportation improvements, including the cost estimates of such road, *mass transit,* and *other* transportation improvements as available from the Virginia Department of Transportation *and the Virginia Department of Rail and Public Transportation,* taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

2. That the Department of Rail and Public Transportation, no later than December 31, 2010, shall promulgate regulations to carry out the provisions of this act. Such regulations shall become effective on July 1, 2011, and shall include reasonable exemptions from the requirements of subsections A, B, and C of § 15.2-2222.1 of the Code of Virginia.

3. That the Department of Rail and Public Transportation shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) as may be necessary to carry out the provisions of the second enactment of this act.

4. That the Department of Rail and Public Transportation shall submit a report to the Governor and the General Assembly no later than December 1, 2010, identifying the costs of conducting the reviews required by this act and recommending a reasonable fee schedule for the performance of such reviews.

5. That the provisions of the first enactment of this act shall become effective on July 1, 2011.