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SENATE BILL NO. 582

Senate Amendments in [] — January 30, 2018

A *BILL to amend and reenact § 10.1-1704 of the Code of Virginia, relating to open-space lands; conversion or diversion.*

Patron Prior to Engrossment—Senator Hanger

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1704 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1704. Diversion of property from open-space land use; conveyance or lease of open-space land.

A. No open-space land, the title to or interest or right in which has been acquired under this chapter and which has been designated as open-space land under the authority of this chapter, shall be converted or diverted from open-space land use unless ~~(i) the:~~

1. *The conversion or diversion is determined by the public body to be (a) essential to the orderly development and growth of the locality and (b) in accordance with the official comprehensive plan for the locality in effect at the time of conversion or diversion and (ii) there. The [applicant for conversion or diversion shall submit to the] public body [may require the submission of] (i) materials, including a letter from the governing body of the locality, demonstrating the essentiality of the project; (ii) examples of all alternatives, including project alterations, that were considered; and (iii) clear evidence that no feasible alternative to the conversion or diversion of the land from open-space land use exists;*

2. *There is substituted other real property which that is (a) of at least equal fair market value, (b) of substantially greater value as permanent open-space land than the land converted or diverted, and (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land converted or diverted. The fair market value of both the land to be converted or diverted and the substitute land shall be established by a certified general real estate appraiser with experience in conservation easement appraisals, and the costs of the appraisals shall be paid by the applicant. If the proposed substitute land is not adjacent to the land to be converted or diverted, then the applicant shall provide a clear explanation of why the acquisition of adjacent land is impossible and how the proposed substitute land will provide replacement conservation values. The public body shall assure that the property substituted will be subject to the provisions of this chapter; and*

3. *A fund to be managed by a public body is created for the stewardship of the substitute land. [The moneys for the creation of such fund shall be provided by the applicant for conversion or diversion.]*

B. A public body may convey or lease any real property *that* it has acquired and ~~which that~~ has been designated for the purposes of this chapter. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection A ~~of this section.~~

ENGROSSED

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