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## HOUSE BILL NO. 1517

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 15.1 a chapter numbered 10.1, consisting of sections numbered 15.1-426.1 through 15.1-426.5, relating to dedications, payments and conveyances.

Patrons—Hall, Cooper, Crittenden, Dickinson, Hull, Ingram, Jones, D.C., Keating, Spruill, Stump and Tate

Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding in Title 15.1 a chapter numbered 10.1, consisting of sections numbered 15.1-426.1 through 15.1-426.5, as follows:

**CHAPTER 10.1.**

**DEDICATIONS, PAYMENTS AND CONVEYANCES.**

**§ 15.1-426.1. Applicability of chapter.**

This chapter shall not apply to any county having a population of 500,000 or more as determined by the most recent U.S. Census, any county or city adjacent thereto, any city contiguous to such adjacent county or city, any town within such county or adjacent county, and any county with a population of between 48,000 and 50,000.

**§ 15.1-426.2. Restrictions on dedications, payments, and conveyances.**

A. Notwithstanding any other provision of this or any other title, no county, city, or town, or administrative agency or official thereof, shall condition a grant of approval for the use, improvement, or development of real property upon a dedication, payment, or conveyance from the property owner or applicant.

B. Notwithstanding any other provision of this or any other title, no county, city, town, or administrative agency or official thereof, shall accept any dedications, payments, or conveyances as a part of any process involving approval for the use, improvement, or development of real property, from a property owner or applicant, except under the following conditions and terms:

1. There must be an essential nexus between a legitimate government interest and the dedications, payments, or conveyances to be accepted;

2. The dedications, payments, or conveyances to be accepted must be specifically and uniquely attributable to the impact created by the actual and intended use, improvement, or development of real property; and

3. Any dedications, payments, or conveyances accepted by a county, city, or town must be supported by an objective study or analysis individual to the property in question and its proposed use, and which demonstrates the present specific and uniquely attributable impact justifying the acceptance of the dedication, payments, or conveyances.

C. For purposes of this chapter, "specific and uniquely attributable" means that which is specific, unique, and which flows directly and proximately from the actual and intended use of real property.

**§ 15.1-426.3. Judicial review.**

A. The circuit courts shall have jurisdiction over all claims brought alleging a violation of § 15.1-426.2, and any such actions shall be given priority over all other matters on the docket, except criminal matters. In the determination of any such actions brought under these provisions, the burden of proof shall be upon the county, city, or town to justify their actions. The failure of a county, city, or town to identify and produce a study required under § 15.1-426.2 B3 shall constitute a prima facie case in favor of the property owner or applicant. A property owner or applicant who brings such an action shall have available all remedies at law or in equity, including mandamus and injunctive relief.

B. Standing to seek judicial review of any alleged violations of this chapter shall be limited to those parties directly involved in the land use approval process. Participation by third parties in the approval process shall not be construed to confer standing to seek judicial review under this chapter.

**§ 15.1-426.4. Penalties.**

Any county, city, or town, or administrative agency or official thereof, who requires, accepts, or attempts to require or accept, any dedications, payments, or conveyances in violation of § 15.1-426.2, shall be liable to the property owner or applicant for all damages, direct and consequential, resulting from its actions. Furthermore, where the property owner or applicant is the prevailing party in any civil action brought alleging a violation of § 15.1-426.2, the court shall award the property owner or applicant his reasonable attorney's fees and costs of litigation.

INTRODUCED

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**60**      *§ 15.1-426.5. Effect of this chapter.*

**61**      *Nothing contained in this chapter shall be construed to give any county, city, or town, or*  
**62**      *administrative agency or official thereof, any authority or power to levy any fees, or to require or*  
**63**      *accept any dedications, payments, or conveyances.*