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HOUSE BILL NO. 1192

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 15.2-2303.2 of the Code of Virginia, relating to cash proffers; road improvements.

 Patron—Marshall, R.G.

 Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2303.2 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2303.2. Proffered cash payments and expenditures.

A. The governing body of any locality accepting cash payments voluntarily proffered on or after July 1, 2005, pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall, within seven years of receiving full payment of all cash proffered pursuant to an approved rezoning application, begin, or cause to begin (i) construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility relocation on the improvements for which the cash payments were proffered. A locality that does not comply with the above requirement, or does not begin alternative improvements as provided for in subsection C, shall forward the amount of the proffered cash payments to the Commonwealth Transportation Board no later than December 31 following the fiscal year in which such forfeiture occurred for direct allocation to the secondary system construction program or the urban system construction program for the locality in which the proffered cash payments were collected. The funds to which any locality may be entitled under the provisions of Title 33.1 for construction, improvement, or maintenance of primary, secondary, or urban roads shall not be diminished by reason of any funds remitted pursuant to this subsection by such locality, regardless of whether such contributions are matched by state or federal funds.

B. The governing body of any locality eligible to accept any proffered cash payments pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall, for each fiscal year beginning with the fiscal year 2007, (i) include in its capital improvement program created pursuant to § 15.2-2239, or as an appendix thereto, the amount of all proffered cash payments received during the most recent fiscal year for which a report has been filed pursuant to subsection D, and (ii) include in its annual capital budget the amount of proffered cash payments projected to be used for expenditures or appropriated for capital improvements in the ensuing year.

C. Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by the governing body of a locality pursuant to § 15.2-2298, 15.2-2303.1 or 15.2-2304, a locality may utilize any cash payments proffered for capital improvements for alternative improvements of the same category within the locality in the vicinity of the improvements for which the cash payments were originally made. Prior to utilization of such cash payments for the alternative improvements, the governing body of the locality shall give at least 30 days' written notice of the proposed alternative improvements to the entity who paid such cash payment mailed to the last known address of such entity, or if proffer payment records no longer exist, then to the original zoning applicant, and conduct a public hearing on such proposal advertised as provided in subsection F of § 15.2-1427. The governing body of the locality prior to the use of such cash payments for alternative improvements shall, following such public hearing, find: (i) the improvements for which the cash payments were proffered cannot occur in a timely manner; (ii) the alternative improvements are within the vicinity of the proposed improvements for which the cash payments were proffered; and (iii) the alternative improvements are in the public interest. *Notwithstanding any other provisions of law to the contrary, the governing body may award a contract to an entity that is providing cash proffers, that is already mobilized in the area, and that is willing to construct a more extensive road improvement utilizing cash proffers of others as well as other available funds, upon a written determination by the governing body stating the basis for awarding one construction contract to extend the limits of the road improvement.*

D. The governing body of any locality with a population in excess of 3,500 persons accepting a cash payment voluntarily proffered pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall within three months of the close of each fiscal year, beginning in fiscal year 2002 and for each fiscal year thereafter, report to the Commission on Local Government the following information for the preceding fiscal year:

1. The aggregate dollar amount of proffered cash payments collected by the locality;
2. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the locality and which pledges are not conditioned on any event other than time; and

INTRODUCED

HB1192

59 3. The total dollar amount of proffered cash payments expended by the locality, and the aggregate
60 dollar amount expended in each of the following categories:

61	Schools	\$_____	
62	Road and other Transportation Improvements		\$_____
63	Fire and Rescue/Public Safety	\$_____	
64	Libraries	\$_____	
65	Parks, Recreation, and Open Space		\$_____
66	Water and Sewer Service Extension		\$_____
67	Community Centers	\$_____	
68	Stormwater Management	\$_____	
69	Special Needs Housing	\$_____	
70	Affordable Housing	\$_____	
71	Miscellaneous	\$_____	
72	Total dollar amount expended	\$_____	

73 E. The governing body of any locality with a population in excess of 3,500 persons eligible to accept
74 any proffered cash payments pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 but that did not accept
75 any proffered cash payments during the preceding fiscal year shall within three months of the close of
76 each fiscal year, beginning in 2001 and for each fiscal year thereafter, so notify the Commission on
77 Local Government.

78 F. The Commission on Local Government shall by November 30, 2001, and by November 30 of
79 each fiscal year thereafter, prepare and make available to the public and the chairmen of the Senate
80 Local Government Committee and the House Counties, Cities and Towns Committee an annual report
81 containing the information made available to it pursuant to subsections D and E.