

071152303

**HOUSE BILL NO. 3159**

Offered January 19, 2007

A *BILL to amend and reenact § 33.1-84.1 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 15.2-2286.2, by adding in Chapter 22 of Title 15.2 an article numbered 9 consisting of sections numbered 15.2-2328 and 15.2-2329 and by adding sections numbered 15.2-2403.1 and 15.2-2403.2, related to zoning; urban transportation service districts; impact fees.*

Patrons—Frederick, Athey and Marshall, R.G.

Referred to Committee on Transportation

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

**1. That § 33.1-84.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2286.2, by adding in Chapter 22 of Title 15.2 an article numbered 9 consisting of sections numbered 15.2-2328 and 15.2-2329 and by adding sections numbered 15.2-2403.1 and 15.2-2403.2 as follows:**

*§ 15.2-2286.2. Provisions for denying or modifying an application for rezoning; inadequate transportation network.*

*A locality may provide in its zoning ordinance for the denial or modification of an application for rezoning when the existing and future transportation network that will serve the proposed development is inadequate to handle the anticipated transportation impact of the proposed development. In determining whether the transportation network that will serve the proposed development is inadequate, the locality shall provide in its zoning ordinance for the consideration of the following: (i) the locality's comprehensive plan, the Department of Transportation's secondary road and other transportation plans, or such other available information regarding the transportation network that will serve the proposed development; (ii) whether the proposed development reduces the level of service in the existing and future transportation network, as determined by the locality in consultation with appropriate transportation agencies; and (iii) whether the design and phasing of the proposed development, the funded capital improvements program, or other combination of public and private resources will address the anticipated transportation impact of the proposed development.*

**Article 9.****Impact Fees.**

*§ 15.2-2328. Applicability of article.*

*The provisions of this article shall apply in their entirety to any locality that has established an urban transportation service district in accordance with § 15.2-2403.2. However, such authority may be exercised only in areas outside of urban transportation service districts and on parcels that have previously been rezoned for by-right residential development. The authority granted under this subsection shall expire on July 1, 2009, for any locality that has not established an urban transportation service district and adopted an impact fee ordinance pursuant to this article by such date.*

*§ 15.2-2329. Imposition of impact fees.*

*A. Any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses may impose and collect impact fees to cover the costs of issuing permits for residential uses in amounts consistent with the methodologies used in its comprehensive plan to defray the capital costs of public facilities related to the residential development.*

*B. Impact fees imposed and collected pursuant to this section shall only be used for public facilities that are impacted by development; however, the fees may be used generally in the areas of development in the locality.*

*C. A locality imposing impact fees as provided in this section shall allow credit against the impact fees for cash proffers collected for the purpose of defraying the capital costs of public facilities related to the residential development. A locality imposing impact fees as provided in this section shall also include within its comprehensive plan a methodology for calculating credit for the value of proffered land donations to accommodate public facilities, and for the construction cost of any public facilities or public improvements the construction of which is required by proffer.*

*D. A locality imposing impact fees under this section may require that such impact fees be paid prior to and as a condition of the issuance of any necessary building permits for residential uses.*

*E. For the purposes of this section, "public facilities" shall be deemed to include: (i) roads, streets, transit and rail facilities, and bridges, including rights-of-way, traffic signals, landscaping, and any local components of federal or state highways; (ii) stormwater collection, retention, detention, treatment,*

INTRODUCED

HB3159

59 and disposal facilities, flood control facilities, and bank and shore protection and enhancement  
60 improvements; (iii) parks, open space, and recreation areas and related facilities; (iv) public safety  
61 facilities, including police, fire, emergency medical, and rescue facilities; (v) primary and secondary  
62 schools and related facilities; and (vi) libraries and related facilities.

63 § 15.2-2403.1. Additional powers of service districts; roads.

64 After adoption of an ordinance or ordinances or the entry of an order creating a service district, the  
65 governing body or bodies shall also have authority for the construction, maintenance, and general  
66 upkeep of streets and roads through the creation of urban transportation service districts pursuant to  
67 § 15.2-2403.2.

68 § 15.2-2403.2. Creation of urban transportation service districts.

69 A. The boundaries of any urban transportation service district created pursuant to this article shall  
70 be agreed upon by both the local governing body of the locality and by the Virginia Department of  
71 Transportation. The overall density of an urban transportation service district shall be one residential  
72 unit per acre or greater. Any disagreement over such boundaries shall be mediated by and, if necessary,  
73 decided by the Commission on Local Government.

74 B. Any locality that has established an urban transportation service district in accordance with this  
75 section shall receive an amount equal to the urban allocation per lane mile for the area within the  
76 district for purposes of road maintenance. In addition, such locality shall receive an amount equal to  
77 the difference between the urban allocation and what VDOT would be spending within the service  
78 district if not for the creation of such district. Such money may be spent by the locality on any  
79 transportation need, including new construction. The money received by a locality pursuant to this  
80 subsection shall come from a dedicated percentage of the state sales tax collected in the locality. The  
81 amount of money to be received by the locality and the percent of the sales tax necessary to produce  
82 such amount shall be determined by the Commonwealth Transportation Commissioner with the  
83 cooperation of the Department of Taxation at such time as the locality has established the boundaries of  
84 the service district. Thereafter, the dedicated percentage of the sales tax as established under this  
85 section shall remain fixed.

86 C. In any instance in which a locality has taken over road maintenance within an urban  
87 transportation service district pursuant to this section, VDOT shall transfer the surplus equipment that is  
88 no longer needed for such road maintenance from VDOT to the locality. In addition, such locality shall  
89 receive a \$10,000 payment from the Commonwealth for each displaced VDOT employee who is hired by  
90 the locality. Each displaced VDOT employee who is hired by the locality shall also receive a \$10,000  
91 payment from the Commonwealth upon completion of one year's service with the locality.

92 § 33.1-84.1. Resumption of responsibility for secondary highways by counties.

93 A. Notwithstanding any provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, the  
94 Commonwealth Transportation Commissioner, following receipt of a resolution adopted by the Board of  
95 Supervisors of a county requesting such action, may enter into an agreement with any county that  
96 desires to resume responsibility over any portion of the state secondary system of highways within such  
97 county's boundaries for the purposes of planning, constructing, maintaining, and operating such  
98 highways. Such agreement shall specify the equipment, facilities, personnel, and funding that will be  
99 provided in order to implement such agreement's provisions.

100 B. If any county enters into an agreement pursuant to subsection A and § 15.2-2403.2 pursuant to  
101 which the county resumes responsibility for maintenance of all or any portion of the state secondary  
102 highway system prior to July 1, 2010, such county shall receive an amount equal to the urban  
103 allocation per lane mile for the area within the district for purposes of road maintenance and an  
104 amount equal to the difference between the urban allocation and what VDOT would be spending within  
105 the service district if not for the creation of such district, with the amount to be determined pursuant to  
106 § 15.2-2403.2.