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HOUSE BILL NO. 3197

Offered January 19, 2007

A *BILL to amend and reenact § 15.2-2403 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 a section numbered 15.2-2403.1, related to zoning; urban transportation service districts; impact fees.*

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

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2403 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 a section numbered 15.2-2403.1 as follows:

§ 15.2-2286.2. Denying or modifying an application for rezoning.

Any locality that has established an urban transportation service district in accordance with § 15.2-2403.1 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 § 15.2-2403.1. However, such authority may be exercised only in areas outside of urban transportation service districts and on parcels that are currently zoned agricultural and are being subdivided 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,

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. Powers of service districts.

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 have the following powers with respect to the service districts:

66 1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable
67 to provide additional, more complete, or more timely governmental services within a service district,
68 including but not limited to water supply, sewerage, garbage removal and disposal, heat, light,
69 fire-fighting equipment and power and gas systems and sidewalks; economic development services;
70 promotion of business and retail development services; beautification and landscaping; beach and
71 shoreline management and restoration; control of infestations of insects that may carry a disease that is
72 dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the
73 Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law
74 (§ 3.1-188.20 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection
75 services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50
76 percent of the property owners who own not less than 50 percent of the property to be served,
77 construction, maintenance, and general upkeep of streets and roads ~~that are not under the operation and~~
78 ~~jurisdiction of the Virginia Department of Transportation; construction, maintenance, and general upkeep~~
79 ~~of streets and roads through creation of urban transportation service districts created pursuant to~~
80 ~~§ 15.2-2403.1; and other services, events, or activities that will enhance the public use and enjoyment of~~
81 ~~and the public safety, public convenience, and public well-being within a service district. Such services,~~
82 ~~events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual,~~
83 ~~business or other private entity.~~

84 2. To provide, in addition to services authorized by subdivision 1, transportation and transportation
85 services within a service district, including, but not limited to: public transportation systems serving the
86 district; transportation management services; road construction; rehabilitation and replacement of existing
87 transportation facilities or systems; and sound walls or sound barriers. However, any transportation
88 service, system, facility, roadway, or roadway appurtenance established under this subdivision that will
89 be operated or maintained by the Virginia Department of Transportation shall be established with the
90 involvement of the governing body of the locality and meet the appropriate requirements of the
91 Department. The proceeds from any annual tax or portion thereof collected for road construction
92 pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is
93 necessary to finance such construction; however, the governing body or bodies shall make available an
94 annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set
95 aside to finance such road construction.

96 3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title,
97 interest or easements therefor in and to real estate in such district and maintain and operate the same as
98 may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and
99 2.

100 4. To contract with any person, municipality or state agency to provide the governmental services
101 authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities
102 and equipment as may be necessary and desirable in connection therewith.

103 5. To require owners or tenants of any property in the district to connect with any such system or
104 systems, and to contract with the owners or tenants for such connections. The owners or tenants shall
105 have the right of appeal to the circuit court within 10 days from action by the governing body.

106 6. To levy and collect an annual tax upon any property in such service district subject to local
107 taxation to pay, either in whole or in part, the expenses and charges for providing the governmental
108 services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such
109 facilities and equipment as may be necessary and desirable in connection therewith; however, such
110 annual tax shall not be levied for or used to pay for schools, police, or general government services not
111 authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the
112 same to be expended in the district in which raised. In addition to the tax on property authorized herein,
113 in any city having a population of 350,000 or more and adjacent to the Atlantic Ocean, the city council
114 shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and
115 travel campgrounds, within such service district at a rate or percentage not higher than five percent
116 which is in addition to any other transient room rental tax imposed by the city. The proceeds from such
117 additional transient room rental tax shall be deposited in a special fund to be used only for the purpose
118 of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this
119 subdivision may base the tax on the full assessed value of the taxable property within the service
120 district, notwithstanding any special use value assessment of property within the service district for land

121 preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner
 122 of such property has given written consent. In addition to the taxes and assessments described herein, a
 123 locality creating a service district may contribute from its general fund any amount of funds it deems
 124 appropriate to pay for the governmental services authorized by subdivisions 1, 2, and 11 of this section.

125 7. To accept the allocation, contribution or funds of, or to reimburse from, any available source,
 126 including, but not limited to, any person, authority, transportation district, locality, or state or federal
 127 agency for either the whole or any part of the costs, expenses and charges incident to the acquisition,
 128 construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or
 129 maintenance of any facilities and services in the district.

130 8. To employ and fix the compensation of any technical, clerical, or other force and help which from
 131 time to time, in their judgment may be necessary or desirable to provide the governmental services
 132 authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such
 133 facilities and equipment as may be necessary or desirable in connection therewith.

134 9. To create and terminate a development board or other body to which shall be granted and
 135 assigned such powers and responsibilities with respect to a special service district as are delegated to it
 136 by ordinance adopted by the governing body of such locality or localities. Any such board or alternative
 137 body created shall be responsible for control and management of funds appropriated for its use by the
 138 governing body or bodies, and such funds may be used to employ or contract with, on such terms and
 139 conditions as the board or other body shall determine, persons, municipal or other governmental entities
 140 or such other entities as the development board or alternative body deems necessary to accomplish the
 141 purposes for which the development board or alternative body has been created. If the district was
 142 created by court order, the ordinance creating the development board or alternative body may provide
 143 that the members appointed to the board or alternative body shall consist of a majority of the
 144 landowners who petitioned for the creation of the district, or their designees or nominees.

145 10. To negotiate and contract with any person or municipality with regard to the connections of any
 146 such system or systems with any other system or systems now in operation or hereafter established, and
 147 with regard to any other matter necessary and proper for the construction or operation and maintenance
 148 of any such system within the district.

149 11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights
 150 of not less than five years' duration in real property that will provide a means for the preservation or
 151 provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.).
 152 Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of
 153 condemnation to acquire any interest in land for the purposes of this subdivision.

154 12. To contract with any state agency or state or local authority for services within the power of the
 155 agency or authority related to the financing, construction, or operation of the facilities and services to be
 156 provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its
 157 general tax revenues, or to pledge its full faith and credit.

158 13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and
 159 programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and
 160 removal of skunks and the conditions that harbor them.

161 *§ 15.2-2403.1. Creation of urban transportation service districts.*

162 *A. The boundaries of any urban transportation service district created pursuant to this article shall*
 163 *be agreed upon by both the local governing body of an urban county and by the Virginia Department of*
 164 *Transportation. The overall density of an urban transportation service district shall be one residential*
 165 *unit per acre or greater. Any disagreement over such boundaries shall be mediated by and, if necessary,*
 166 *decided by the Commission on Local Government. For purposes of this section, an "urban county"*
 167 *means any county with a population of greater than 90,000 that did not maintain its roads as of*
 168 *January 1, 2007.*

169 *B. Any urban county that has established an urban transportation service district in accordance with*
 170 *this section shall receive an amount equal to the urban allocation per lane mile for the area within the*
 171 *district for purposes of road maintenance. In addition, such locality shall receive an amount equal to*
 172 *the difference between the urban allocation and what VDOT would be spending within the service*
 173 *district if not for the creation of such district. Such money may be spent by the locality on any*
 174 *transportation need, including new construction.*

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