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HOUSE BILL NO. 72

Offered January 9, 2008

Prefiled December 7, 2007

A BILL to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 10, consisting of a section numbered 15.2-2330, relating to capital improvements impact fees.

Patrons—Marshall, R.G. and Frederick

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 Chapter 22 of Title 15.2 an article numbered 10, consisting of a section numbered 15.2-2330, as follows:

*Article 10.**Capital Improvements Impact Fees.**§ 15.2-2330. Capital improvements impact fees.*

A. Any locality may adopt an ordinance providing for payment of impact fees to be paid prior to issuance of a building permit for construction of a residential unit. The impact fee shall be in an amount representing the proportional total or partial cost of capital improvements reasonably related to the education, transportation, parks, or public safety needs generated by the additional residential development. However, if the development is solely for senior residents, then the impact fee shall be in an amount representing the proportional total or partial cost of capital improvements reasonably related only to public safety or public sewer or water needs generated by the additional residential development.

No locality shall assess impact fees unless such locality's comprehensive plan clearly identifies the transportation, education, parks, or public safety, if applicable, needs in the area of the locality that shall serve the proposed residential development.

B. Prior to adoption of any ordinance providing for impact fees, the locality shall have adopted a capital improvement program pursuant to § 15.2-2239 or local charter. No impact fee shall be assessed unless the capital improvements related to the additional development have been included in the locality's capital improvement program. All impact fees collected shall be used by the locality for the purpose of completing capital improvements specified in the capital improvement program. If within six years of accepting a developer's pro-rata share of impact fees agreed to under this section, the locality has not applied all such funds to the capital improvement project or projects that were the basis of its acceptance of the impact fees, then the developer may seek a writ of mandamus to compel the locality to do so. Nothing herein shall prevent a locality from assessing impact fees for capital improvements that would not normally be included in a capital improvement program.

C. The impact fee ordinance shall include provisions for the calculation and administration of impact fees and may establish criteria for periodic fee adjustments to reflect changes in the estimated costs of the improvements designated in the capital improvement program and the inclusion of additional capital improvements.

D. For purposes of this section, unless the context requires a different meaning, "cost" includes, in addition to all labor, materials, machinery, and equipment for construction, (i) acquisition of land, rights-of-way, property rights, easements and interests, including the costs of moving or relocating utilities; (ii) demolition or removal of any structure on land so acquired, including acquisition of land to which such structure may be moved; (iii) survey, engineering, and architectural expenses; (iv) legal, administrative, and other related expenses; and (v) interest charges and other financing costs if impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by the locality to finance the capital improvement.

E. The impact fee ordinance shall provide that the developer shall be given a pro-rata credit for cash contributions for capital costs of public facilities specified in the impact fee ordinance where such contributions were proffered, accepted, and paid pursuant to § 15.2-2298 or § 15.2-2303. However, nothing herein shall preclude a developer from proffering and the locality from accepting conditions, including the payment of cash, designed to address any impacts related to a specific development that are not addressed by a locality's impact fee ordinance.