

HBAV LEGISLATIVE BULLETIN

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January 25, 2008

ACTION ALERT – ACTION ALERT – ACTION ALERT

HBAV-BACKED “END” TO “CASH” PROFFER SYSTEM SET FOR SENATE COMMITTEE HEARING

“E-mail Your State Senator Today”

On Tuesday afternoon of next week, January 29th, Senate Bill 768, the HBAV-backed measure that will “terminate” the cash component to the proffer system will be considered by the Senate Committee on Local Government. The Patron of SB 768 is Senator John Watkins.

The overall objective of Senate Bill 768 is to broaden the base of those that make growth-related contributions to the cost of public infrastructure (public roads, public schools and public safety buildings), and consequently, to reduce the per unit cost.

Senate Bill 768 would “eliminate” cash from the current proffer system in Virginia and substitute it with the application of impact fees on most new residential and commercial development, and includes a very modest Real Property Tax Relief Fee that will be paid by the sellers of real estate, outside of Northern Virginia and Hampton Roads. As you may recall, that fee (Congestion Relief Fee) was raised in 2007 in those regions of the state for their regional transportation authorities. The measure retains the authority of local governments to accept non-cash, on-site proffers from residential developers and commercial developers. In addition, localities could accept non-cash, off-site transportation proffers from commercial developers.

ACTION ALERT – ACTION ALERT – ACTION ALERT

Every member of HBAV whose State Senator serves on the Senate Committee on Local Government is URGED to immediately email or call their State Senator in Richmond to urge them to vote for Senate Bill 768, the Watkins Proffer Reform Bill. The Vote on SB 768 will be on Tuesday afternoon at 2:00. That committee will be the first stop in the measure’s legislative journey. Please include your name and address in your email. ***YOUR SENATOR WILL NEED TO KNOW THAT YOU ARE A CONSTITUENT!***

Tell your State Senator that SB 768 will: (1) benefit local governments with a more consistent source of revenue for local schools, local roads and local public safety facilities from the private sector (residential and commercial developers); (2) will create more predictability of those costs and certainty for home builders and their buyers; (3) will benefit existing residents, since local governments will have a new consistent source of revenue for growth-related local public infrastructure; and (4) will help make housing more affordable for hard-working Virginians.

LISTED BELOW ARE THE RICHMOND OFFICE E-MAIL ADDRESSES AND THE RICHMOND OFFICE TELEPHONE NUMBERS OF THE MEMBERS OF THE SENATE

COMMITTEE ON LOCAL GOVERNMENT! IMMEDIATELY E-MAIL OR CALL THEM WITH THE 4 POINTS OUTLINED ABOVE. BE SURE TO INCLUDE YOUR NAME AND VOTING ADDRESS ON YOUR EMAIL MESSAGE OR PHONE MESSAGE. THEY NEED TO KNOW THAT YOU ARE A CONSTITUENT. **YOUR EMAIL MESSAGE OR PHONE CALL WILL MAKE A DIFFERENCE!**

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Did you leave your name and address with your message to your State Senator? You must for your message to count! Email or phone your message to your State Senator immediately.

SENATE BILL 768 – BILL SUMMARY

- 1. Eliminate cash from the current Proffer System in Virginia.** But grandfather cash proffers that have been pledged, but not paid, prior to the effective date. Require a full credit for the value of any cash proffers contracted to be paid (for which impact fees could be imposed) against any subsequent impact fees that may be collected in conjunction with final subdivision or site final plan approval in conjunction with the same development. Retain the current cash proffer reporting system.
- 2. Retain, but reform, the non-cash Proffer System** to allow high-growth localities to continue to accept non-cash, on-site proffers for residential and commercial developers. In addition, localities could accept non-cash, off-site proffers from commercial developers for transportation improvements. Includes a full-credit for the value of any on-site and off-site proffers for which impact fees could be imposed against subsequent impact fees that may be collected in conjunction with final subdivision or final site plan approval of the same development.
- 3. Enact an Impact Fee Statute in Virginia for Public Roads, Public School Buildings and Public Safety Buildings (fire, rescue and police).** Would authorize all cities and high-growth (5% population growth between each 10-year census) localities, which have a population of 20,000 or more, to impose impact fees. Localities with a 15% population growth between each 10-year census would also be authorized to enact an impact fee ordinance. Would apply to all residential and commercial rezonings and by-right residential and commercial development (so-called stale-zoned land) within an impact fee service area at final subdivision or final site plan approval and recordation. Any subdivision or site plan having received final approval and has been recorded prior to adoption of an impact fee ordinance and the creation of an impact fee service area would not be subject to the impact fee statute.

The model for the impact fee statute would be the current road impact fee statute and its many planning requirements, capital improvement assessment requirements and capital improvement funding requirements, plus a cap. The cap could be adjusted annually based on an independent index. **It is proposed that an \$8,000 per unit cap would be established for localities within the Northern Virginia Transportation Authority area and second per unit cap of \$5,000 would be established for the remainder of the Commonwealth.** Impact fees could only be imposed for public roads, public school buildings and public safety buildings (fire, police and emergency services) necessitated by and attributable to new subdivisions or new site plans. Only road and public safety impact fees could be imposed on commercial development.

- 4. Require high-growth localities, located outside the Northern Virginia Transportation Authority and located outside the Hampton Roads Transportation Authority, that enact an impact fee ordinance to impose a Real Property Tax Relief Fee** of 20 cents per \$100.00 of value, paid by the seller, or fraction thereof on each deed sold and granted, assigned, transferred, or otherwise conveyed in that locality that must be deposited in the locality's capital improvement fund. The proceeds from the Real Property Tax Relief Fee would also have to be used in the calculation of impact fees necessitated by and attributable to new development.

Such a fee would be fair, and would help to reduce the continuing opposition to new housing created by existing residents, who fear such growth increases their real estate property taxes.

SPRINKLER MANDATE FAILS TO CLEAR SENATE COMMITTEE

On Wednesday afternoon of this week, the Senate Committee on General Laws tabled Senate Bill 363, which would have mandated that all residential buildings, built before 1983 that are over 75 feet in height or have 6 stories or more to be retrofit with a sprinkler system. The measure would have required all such residential buildings to be retrofitted by December 31, 2017. Appearing against the bill were several owners of such buildings, the Apartment and Office Building Association, the Virginia Chamber of Commerce and HBAV. Favoring SB 363 was a large number of fire officials from throughout Virginia.

Most of the opposition focused on the favorable life safety ratios from the Virginia Department of Fire Programs, cost, displacement of tenants during the retrofit and increased rents resulting from such a state mandate.

HOUSE CC&T SUBCOMMITTEE KILLS ANTI-HOUSING BILLS

On Thursday morning of this week, the House CC&T Subcommittee Number 2, chaired by Danville Delegate Danny Marshall killed 4 anti-housing measures.

House Bill 356, by Delegate Cole would have allowed a locality that had adopted a road impact fee ordinance the authority to exempt housing created by a family division. HBAV reminded the Subcommittee that the intent of the road impact fee was to require all households that create traffic within a road impact fee service area to pay their fair-share of transportation improvement costs.

House Bill 358, by Delegate Cole would have allowed a locality to suspend hook ups to public water supply systems following the adoption of a water supply emergency ordinance.

House Bill 635, by Delegate May would have authorized localities to layer unbridled education facility impact fees on top of the current cash proffer system.

House Bill 726, by Delegate Ed Scott would have authorized localities to include in their proffer ordinance a provision for the acceptance of cash proffers for the purchase of development rights.

The other members of the important Subcommittee of House CC&T, to the members of HBAV are Delegates Suit, Oder, Lohr, Saxman, Merricks, Hull, Spruill, Ware, O., Poisson and Nichols. All 4 bills were tabled by nearly unanimous voice votes. Subcommittee votes in the House of Delegates are not recorded votes.

HOUSING SUBCOMMITTEE OF HOUSE GL KILLS

ANTI-HOUSING BILLS

On Wednesday evening of this week, the Housing Subcommittee of the House General Laws Committee killed several bills that were introduced to legislate the Uniform Statewide Building Code (USBC). Rarely does the state legislature attempt to legislate the USBC. It has happened. The new chairman of the Housing Subcommittee is Delegated Glenn Oder of Newport News.

House Bill 302, by Delegate Nichols would have amended the USBC to prohibit the use of diesel fuel or motor oil as a release agent for concrete forms. As a freshman Delegate, Mr. Nichols was not aware of the policy of the state legislature to resist the temptation to legislate the building code.

House Bill 598, by Delegate McClellan would have amended the USBC to require building officials to notify a property owner when an application for a building permit had been filed for the property.

House Bill 541, by Delegate Orrock would have extended the period a builder could be criminally charged for violating the building code from 2 years to 3 years. Delegate Orrock had a constituent that was a victim of a “bad actor”, but respected the Subcommittee’s decision not to change state law for one problem.

The other members of the Housing Subcommittee of House General Laws are Delegates Carrico, Iaquinto, Miller, J., Hull, Dance and Bulova.

IMPORTANT DATES TO REMEMBER

February 13, 2008	Deadline to Consider Bills in the House of Origin
March 3, 2008	Deadline for Committee Action On Legislation
March 8, 2008	Adjournment

Email Your State Senator Today

Help HBAV “END” the Cash Proffer System in Virginia!