

HBAV LEGISLATIVE BULLETIN

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HBAV-BACKED “END” TO “CASH” PROFFER SYSTEM ADVANCES FROM SENATE COMMITTEE

“Next Stop - Senate Committee on Finance”

On Tuesday afternoon of this week, Senate Bill 768, the HBAV-backed measure that will “terminate” the cash component to the proffer system in conjunction with residential rezonings was reported from the Senate Committee on Local Government and referred to the Senate Committee on Finance. The Patron of SB 768 is Senator John Watkins.

The vote to advance SB 768 to the Senate Committee on Finance was 10 to 3. Prior to that vote, the Senate Committee deleted the 20 cent increase in the Grantors tax that HBAV had labeled the Real Property Tax Relief Fee. Proving, once again, it is very, very, difficult to pass a tax increase through the Virginia General Assembly.

The Senate Local Government Committee also accepted an amendment, proposed by the commercial real estate developers, to allow localities to continue to accept on-site and off-site cash proffers in conjunction with commercial real estate rezonings. In mixed use developments, cash could not be proffered or accepted for the residential component of the development. HBAV supported the commercial real estate industries effort to be removed from the proffer limitation provisions of the bill.

Senate Bill 768 also survived a motion to delay further consideration of the measure until 2009 on 7 to 7 tie vote. Had that motion passed, SB 768 would have halted for the 2008 session of the state legislature.

Voting in favor of advancing the bill were Senators Lucas, Marsh, Quayle, Martin, Hanger, Puller, Ruff, Obenshain, Smith and Stuart. Voting against the HBAV-backed bill were Senators Cuccinelli, Herring and Locke. Not present for the vote were Senators Ticer and Reynolds.

Senator Watkins presented SB 768 to the Senate Committee. Speaking in favor of the bill were HBAV Executive Vice President Mike Toalson, HBAV General Counsel William G. Thomas and George Mason University Professor Stephen Fuller, who presented the results of study he had conducted comparing the revenues of the proffer system for 2 high-growth counties to the alternative proposed by HBAV.

Speaking against SB 768 was the Virginia Association of Counties, Virginia Municipal League, the Coalition of Former High-Growth Localities, and the Piedmont Environmental Council. The Virginia Association of Realtors (VAR) spoke against the increase in the grantors tax in the measure, and urged the Senate Committee to delete that provision from the bill.

The Senate Finance Committee will likely consider SB 768 on Wednesday, the final scheduled meeting of Senate Committee. The Finance Committee will not discuss the policy of the measure, only whether

or not to put the Grantors Tax component back on SB 768.

After discussions with the HBAV leadership, a poll of the HBAV Legislative Committee, discussions with the leadership of the State Senate and House of Delegates, HBAV has urged Senator Watkins and the Senate Finance Committee to advance SB 768, without the grantors tax component of the bill.

SENATE BILL 768 – BILL SUMMARY

1. For Residential Development, eliminate cash from the current Proffer System in Virginia.

But, grandfather cash proffers which have been pledged in conjunction with a residential development, but have not been paid. 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. Allows on-site and off-site cash proffers in conjunction with commercial development to continue.

2. Retain, but reform, the non-cash Proffer System for Residential Development

to allow high-growth localities to continue to accept non-cash, on-site proffers in conjunction with residential development, and limited non-cash, off-site proffers (i.e. off-site road entrance improvements). Most off-site non-cash proffers would be prohibited. Allow localities to continue to accept on-site and off-site non-cash proffers from commercial developers. Includes a full-credit for the value of any on-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 a cap of \$8,000 per single family detached unit would be established for localities within the Northern Virginia Transportation Authority area and \$5,000 per single family detached unit cap be established for the remainder of the Commonwealth. The attached housing cap would be 2/3 of that amount per unit and multi-family cap would 1/2 of that amount per unit. The cap for commercial development would be \$3.00 per gross foot for office, \$4.00 per gross foot for retail and \$2.00 per gross foot for industrial.

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.

All residential dwelling units subject to the Affordable Dwelling Unit and Section 8 Housing statute would be exempt from an impact fee ordinance. All monies received within an impact fee service area would have to be disbursed within the same impact fee service area within 15 years.

4. The January, 2007 Fuller Study or “Analysis of Alternative Infrastructure Financing Sources” concluded that by Enacting SB 768, substantially more cash revenues for local public facilities (roads, school buildings and public safety buildings) than was generated through the cash proffer system, in the past 4 years, in Chesterfield County and Prince William County. For Chesterfield County, more than \$39 million more would have been received, and in Prince William County, more than \$70 million more would have been received. (See attached)

Should Senate Bill 768 clear the Senate Committee on Finance next Wednesday morning, the measure will be advanced to the full 40-member State Senate.

HOUSE CC&T SUBCOMMITTEE KILLS ANTI-HOUSING BILLS “Subcommittee Advances 2 pro-housing measures”

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

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.

House Bill 954, 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.

House Bill 1033, by Delegate Jeff Frederick would have granted towns the authority to create Urban Transportation Service Districts and new broad, uncapped, unstructured impact fee authority. Such authority was granted to 5 large counties during the 2007 Session, if they agreed to take responsibility for the planning, construction and maintenance of their roads. That authority expires on December 31, 2008.

HB 1113, by Delegate Cole would have Imposed a fee for the issuance of a certificate of occupancy for every building or structure that is neither exempt from taxation by law nor actually valued at less than \$100,000 at the time such final certificate of occupancy is issued. The fee would have been due within 90 days of the issuance of such certificate of occupancy. The amount of the fee would have been equal to five percent of the actual value of such building or structure, exclusive of the first \$100,000 of such actual value. The amount of the fee may, however, increase to five percent of the sales price of such building or structure, exclusive of the first \$100,000 of such sales price, if no fee has been collected on such building or structure and such building or structure is sold within 90 days of the issuance of a certificate of occupancy; in this event, the amount of the fee is due and payable on the date of the settlement of the sale. Under all circumstances, the fee is capped at \$20,000 per building or structure.

House Bill 1297, by Delegate Jeff Frederick provided that any locality that is subject to the provisions of the Chesapeake Bay Preservation Act may, by ordinance, adopt provisions related to the provision of adequate public facilities. Local adequate public facility provisions may be applied during the subdivision or site plan review and approval process.

ON THE POSITIVE SIDE OF THE LEDGER, the Subcommittee advanced House Bills 721 and 1177.

House Bill 721, by Delegate Glenn Oder, would create a more compact or expedited site plan approval process for commercial property in localities with a population greater than 90,000.

House Bill 1177, by Delegate Scott Lingamfelter, provides that once a plat for a portion of the property is recorded, the preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. Also, an approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action.

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

LOCAL ASSOCIATIONS SCHEDULED FOR RICHMOND VISIT

To have a consistent presence of HBAV members (Home Builders and Associates) in the halls of the General Assembly Building throughout the 2008 Session of the Virginia General Assembly to demonstrate the need for reform of the Proffer System and to encourage support for the passage of Senate Bill 768, the HBAV-backed Proffer Reform Legislation, HBAV has scheduled a "Richmond Visit" for 3 to 5 local associations each Tuesday of the 2008 session of the state legislature.

The schedule is as follows:

11:00 a.m. Arrive in at the Stewart Lee House in Richmond for an "Issue Briefing Session".

11:30 a.m. Join the HBAV Legislative Committee for their weekly luncheon that precedes their weekly 12:00 noon meeting

12:00 noon. Briefly join and be welcomed to Richmond by the HBAV Legislative Committee at the start of their weekly meetings.

12:30 p.m. Walk to the General Assembly Building (GAB) to visit with area legislators on the Proffer Reform Legislation.

3:00 p.m. No later than 3:00 p.m. return to the Stewart-Lee House to complete a Feedback Form on your discussions with members of the House of Delegates and State Senate

The “Richmond Visit” plan has been executed because when constituents of the state legislator travels to Richmond to visit on legislation that is important to them...LEGISLATORS LISTEN. Constituents that travel to Richmond VOTE and often influences the vote of other constituents...especially business owners. A consistent and large presence of home builders and associate members of the HBAV in the halls of the GAB will get their attention and reinforce that “proffer reform” is vital to the housing industry and future homeowners in 2008.

In January, two carloads of members from the Fredericksburg Area HBA, Tidewater BA, Northern Virginia BIA, HBA of Richmond, Roanoke Regional HBA and Top of Virginia BA visited Richmond. **The “Top” brought a busload of members to Richmond and hosted a reception for their area legislators at the Stewart-Lee House that evening.**

On Tuesday, February 5th, two carloads of the members from the Blue Ridge HBA, Piedmont Virginia BIA, HBA of Southside Va, B&A of Southern Virginia and the HBA of Rappannock are scheduled to visit HBA and Richmond.

On Tuesday, February 12th, two carloads of members from the B&S of Southern Virginia, New River Valley HBA, Augusta HBA, Shenandoah Valley HBA and Shenandoah County HBA are planning on joining us in Richmond.

The HBAV Lobbying Team and the HBAV Leadership greatly appreciates the support of the 17 HBAV Affiliated Local Associations in its efforts to protect and enhance the housing climate in Virginia.