

Commission on Growth and Economic Development

HJR 170 (2004)

HJR 156 (2002)

HJR 671 (2001)

<http://dls.state.va.us/growth.htm>

Monday, August 16, 2004
2:00 p.m.

House Room D
General Assembly Building

Legislation / Issues From 2004 Session

Adequate Public Facilities

HB 68 Parks and Recreational Facilities Act, Local; created.

Patron - Robert G. Marshall

Summary as introduced:

Local Parks and Recreational Facilities Act. Requires the Department of Conservation and Recreation to undertake a comprehensive assessment of the adequacy of public parks and recreational facilities provided by each Virginia locality. The bill sets forth factors that the Department must consider and requires that the locality cooperate during the assessment process. If the Department determines that a locality's parks or recreational facilities are inadequate or will be inadequate within five years, then the locality will have one year to develop a plan for curing such inadequacy. If the Department determines that such plan will not achieve adequacy, then it shall impose a parks and recreation residential impact fee upon the builder of each new residential unit in the locality, until such time as the parks and recreational facilities are adequate. The Department shall base such fee on the pro-rata impact of each additional residential unit on (i) existing parks and recreational facilities, and on (ii) the costs of improving or developing new parks or recreational facilities. The Department shall hold all collected fees on behalf of the locality in an interest-bearing escrow account, and shall make distributions for the development of new or improvement of existing parks and recreational facilities. The Board of Conservation and Recreation is authorized to promulgate regulations for the implementation of the Act.

HB 306 Transportation Plan; to include adequacy of local or regional transportation system.

Patron - Robert G. Marshall

Summary as introduced:

Statewide Transportation Plan; inadequacy of local or regional system. Requires the Commonwealth Transportation Board to establish and apply an impact fee in any locality or region where pursuant to a comprehensive review, it determines that transportation needs are not being adequately met. The bill requires the Board to collect a fee from the builder of each new residential or commercial unit constructed in the locality or region until it determines that the transportation needs in the locality or region are being adequately met and are likely to remain so for at least the next five years. The fee shall be based on standards and criteria established by the Board, including but not limited to (i) average levels of traffic congestion and vehicle miles traveled by residents in such locality or region, (ii) the pro-rata impact of each residential or commercial unit on the existing transportation network, and (iii) the pro-rata impact of each additional residential or commercial unit on the costs of improving, expanding or developing new transportation systems in order to adequately meet the needs of such new development. The Board shall

allocate all fees collected under these provisions to a special account within the Transportation Trust Fund on behalf of the locality or localities subject to the fee requirement. The Board shall make disbursements from such account for the improvement, maintenance or expansion of the transportation system in such locality or region. Upon a determination by the Board that the local or regional transportation system is adequate and is likely to remain adequate for at least the next five years, the Board shall release to the locality or localities all funds that may remain in the Transportation Trust Fund on their behalf.

HB 307 Public schools; adequacy of public education facilities in local school divisions.

Patron - Robert G. Marshall

Summary as introduced:

Adequacy of public education facilities in local school divisions. Requires the Board of Education to undertake a comprehensive assessment of the adequacy of public education facilities in each local school division of the Commonwealth. The bill sets forth factors that the Board must consider and requires that the locality cooperate during the assessment process. If the Board determines that a local school division's public education facilities are inadequate or will be inadequate within five years, then the local school board will have one year to develop a plan for curing such inadequacy. If the Board determines that such plan will not achieve adequacy, then it shall impose a public education residential impact fee upon the builder of each new residential unit in the local school division, until such time as the facilities are adequate. The Board shall base such fee on the pro-rata impact of each additional residential unit on (i) existing public education facilities, and on (ii) the costs of improving or constructing new public education facilities. The Board shall hold all collected fees on behalf of the local school division in the Virginia Public School Construction Grants Fund, or the local Capital School Projects Fund, if established by the local governing body, and disbursements shall be made in accordance with the provisions of each fund. The Board is authorized to promulgate regulations for the implementation of the act.

HB 729 Subdivision ordinances; provisions to allow locality to determine adequate public facilities.

Patron - Robert G. Marshall

Summary as introduced:

Adequate public facilities; residential development deferral and impact fees; local bonds for infrastructure. Allows high-growth localities to adopt provisions in subdivision ordinances for the deferral of approval subdivision plats or site plans when existing schools, roads, public safety, sewer or water facilities are inadequate to support a proposed development. Infrastructure shall be deemed inadequate if, at the time of the submission of a plat or plan, or preliminary plat or plan where preliminary plats or plans are required, the cost to the locality of providing infrastructure necessary to serve the development proposed in such plat or plan at build out would exceed \$100,000. In order to defer approval of a plat or plan, a locality must have in force, or promptly initiate and diligently pursue the adoption, for the area in which the plat or plan is proposed, a capital improvement plan that provides that adequate infrastructure shall be available to serve the development shown in such proposed plat or plan within no more than 10 years of the date of submission of such plat or plan, provided that the plat or plan at the time of submission otherwise meets the requirements of the local ordinance for approval. The capital improvement plan shall be funded on at least an annual basis in an amount necessary to provide sufficient funds to ensure that those elements of infrastructure that were deemed inadequate for purposes of such deferral will be adequate at the end of such 10-year period. "High-growth locality" means any locality that has grown in population by more than one percent for at least three of the previous five years.

The bill authorizes the governing body of any high-growth locality to, through the use of bonds, finance the cost of new infrastructure or improvements to existing infrastructure determined inadequate pursuant to a local ordinance authorized by this bill, provided that the locality shall have obtained a voluntary and binding commitment from the applicant to pay an impact fee equivalent to the annual principal and interest and for the period required to retire such bonds. The locality may secure such commitment in any reasonable manner that it deems necessary to insure the revenues necessary to retire such bond.

Finally, the bill adds to the general zoning statutes the authority to adopt local ordinances related to the timing of development when public facilities are not deemed adequate by the local governing body.

HB 746 Law enforcement and fire and rescue services; review by Secretary of Public Safety.

Patron - Robert G. Marshall

Summary as introduced:

Secretary of Public Safety; assessment of local law-enforcement and fire and rescue services. Requires the Secretary of Public Safety to undertake a comprehensive assessment of the adequacy of law-enforcement and fire and rescue services provided to the citizens of each locality in the Commonwealth. The factors to be considered by the Secretary in performing each local assessment shall be established by the Secretary working in conjunction with the Department of Emergency Management, the Department of Fire Programs, the Department of Criminal Justice Services, the Department of State Police, and any other state executive agency deemed appropriate by the Secretary. Upon a determination of inadequacy and failure of the locality to cure, the Secretary shall establish and collect a fee from the builder of each new residential unit constructed in the locality until such time as the Secretary determines that the local law-enforcement and fire and rescue services are adequate and are likely to remain adequate for at least the next five years. The Secretary shall make disbursements to the locality from such account for the acquisition, improvement or development of new or existing law enforcement or fire and rescue services.

HB 747 Sewage systems and public water supplies, local; adequacy.

Patron - Robert G. Marshall

Summary as introduced:

Adequacy of local sewage systems and public water supplies. Directs the State Department of Health to undertake a comprehensive assessment process to determine the adequacy of local sewage systems and public water supplies provided to its citizens by each locality in the Commonwealth. If the Department determines that a locality's sewage systems or public water supplies are not adequate to serve its current population, or will be inadequate within the next five years, and the locality fails to develop a program to cure this situation, then Department shall establish and apply a local sewage system and public water supply residential development impact fee in such locality. The fee, collected from builders of new residential units, shall be based upon the Department's determination of the following (i) the pro-rata impact of each additional residential unit on existing sewage systems and public water supplies, and (ii) the pro-rata impact of each additional residential unit on the costs of improving or developing new sewage systems and public water supplies in order to adequately meet the needs of such new residential development. The Department shall make disbursements to the locality for the acquisition, improvement or development of new or existing sewage systems and public water supplies, until such time as the Department determines that the local sewage systems and public water supplies are adequate.

HB 893 Subdivision ordinances; provisions to allow locality to determine adequate public facilities.

Patron - Mark D. Sickles

Summary as introduced:

Adequate public facilities. Allows any locality to adopt provisions in its subdivision ordinance for deferring the approval of subdivision plats or site plans when it determines that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development. Such deferrals cannot extend beyond 12 years, and applicants are entitled to approval of subdivision plats during the deferral period at the lowest density permitted in the locality for any zoning district. The bill specifies that any appraisal of property subject to a deferral under the bill shall reflect the effect of such deferral on the fair market value of the property. A locality may also consider the adequacy of public facilities in the

preparation of its zoning ordinance. Also, the purposes of zoning ordinances are amended to include protection against undue rate of development in relation to existing or available public facilities.

SB 393 Educational facilities; adequate levels of service needed in comprehensive plan.

Patron - Frederick M. Quayle

Summary as introduced:

Adequate levels of service for educational facilities. Provides that, concurrent with its periodic review of the comprehensive plan, the planning commission in localities with certain proffer zoning authority, in consultation with the school board and the division superintendent, shall make a study estimating the capacity in elementary, middle and high school facilities that would be needed to meet established levels of service for the locality based on anticipated growth in the locality during the period projected by the comprehensive plan. The recommendations shall be prepared with the active participation of the school board and division superintendent and must include a statement of their concurrence in the recommendations. Such localities may include in their ordinances provisions that no application for approval of the preliminary plat for a new residential subdivision, or for approval of a site plan or plan of development for any other new development incorporating more than five residential units, will be accepted unless it is accompanied by certification issued by the planning commission after consultation with the school board, that proposed subdivisions or other development is consistent with the adopted educational facilities plan for the locality, and will not cause the level of service for the schools available in the locality to serve the new development to decline below the standards established pursuant to this bill. Refusal of an application shall be without prejudice to refile at such time as the applicant is able to obtain certification. Ordinances adopted under this bill may provide that in lieu of the certification required, if the proposed subdivision or development will cause the level of service for the schools available to serve the proposed subdivision or development to fall below the established standards, as a condition of approval the applicant may elect to pay, and the locality may assess, an educational facilities fee sufficient to cover the costs of additional capital improvements that will be imposed upon the school division in which the new proposed subdivision or development is to be located, which improvements are necessitated by and attributable to the proposed subdivision or development and which are required to maintain the level of service established for the schools serving the proposed subdivision or development.

Impact Fees

HB 482 Residential development; imposition of impact fees.

Patron - Mark L. Cole

Summary as introduced:

Impact fees for residential development. Allows localities to adopt an ordinance providing for payment of impact fees for residential development. The impact fee shall be in an amount representing the proportional total or partial cost of capital improvements reasonably related to the transportation, education, and public safety needs for public facilities generated by the additional residential development. However, in no event shall the impact exceed five percent of the sale price of the property, or five percent of the assessed value if the property is not being sold, or \$10,000, whichever is less. 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 ordinance.

HB 748 Residential development impact fee; applicable to any locality.

Patron - Robert G. Marshall

Summary as introduced:

Residential development impact fee assessments; adequate public facilities. Allows localities to adopt ordinances for the assessment of impact fees when certain public facilities are inadequate to support a proposed residential development. If the proposed development is for senior residents only, then impact fees may be assessed in relation to the adequacy of public safety, or public sewer or water facilities. For all other proposed residential developments, the impact fees may be assessed in relation to the adequacy of education, transportation, or public water or sewer needs. Such fees shall be a pro rata share of the costs of reasonable and necessary capital improvements attributable to the proposed development. Prior to any impact fee assessment, the locality must identify the particular public facility needs in its comprehensive plan, and must have in place a capital improvement program that provides a reasonable basis for determining the extent or level of inadequacy of such facilities in the area of the proposed development. If the locality does not apply impact fees paid by a developer to the capital project that served as the basis for such assessment within six years of collection, then the developer may seek a writ of mandamus to compel the locality to do so. Any impact fee ordinances shall expire after six years, and may then be adopted for consecutive six-year periods.

HB 752 Public facilities impact fees; applicable in all localities.

Patron - Joe T. May

Summary as introduced:

Impact fees. Expands the existing road impact fee provisions to include school improvements and extends the applicability of such provisions from Northern Virginia localities to all localities. "Impact fee" is defined as a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of public facilities necessitated by and attributable to the new development. The value of any dedication, contribution or construction from the developer for off-site road improvements and school facility improvements within the service area shall be treated as a credit against the impact fee. Also, an obsolete sunset clause is deleted.

SB 123 Transportation impact fees; applicable in certain counties.

Patron - John C. Watkins

Summary as introduced:

Transportation impact fees for certain counties. Provides that any county that has been granted a charter by the General Assembly (currently includes Chesterfield, James City and Roanoke) may by ordinance enact reasonable provisions for the assessment of impact fees on new residential development for the purpose of mitigating the effect of such new development on the locality's transportation infrastructure. Any such fees shall be payable at the time of issuance of any building permit. No impact fee shall be assessed if the owner has made proffers of cash for roads or constructed off-site improvements that mitigate the transportation impact from such development but such fees may be assessed to the extent that such proffers and improvements do not mitigate such impact.

SB 534 Road impact fees; utilization in Henrico County.

Patron - Walter A. Stosch

Summary as introduced:

Road impact fees. Adds Henrico County (described by form of government) to those localities that may utilize road impact fees. Also, an obsolete sunset provision is deleted.

Proffer Zoning

Review of conditional zoning to determine impact on development patterns, housing affordability and public infrastructure improvements.