

**HB3202-RELATED LEGISLATION
REMAINING IN 2008 SESSION**

HB 1033 Urban transportation service districts; grants towns authority to create.

Summary as introduced: **Urban transportation service districts.** Grants towns authority to create such districts. Creation of such districts is also a prerequisite for use of the new impact fee authority granted during the 2007 Session.

Patron: Frederick

HB 1571 Impact fees; restores provisions to how existed prior July 1, 2007 & repeals those passed in 2007.

Summary as introduced: **Impact fees.** Restores road impact fee provisions to how they existed prior to July 1, 2007, and repeals general impact fee provisions passed during the 2007 Session.

Patron: Hull

SB 768 Conditional zoning; impact fees.

Summary as introduced: **Conditional zoning; impact fees.** Replaces the current cash proffer system with a system of impact fees.

Patron: Watkins

HJ 178 Urban Development Areas; joint subcommittee to study development in localities.

Summary as introduced: **Study; Urban Development Areas; report.** Creates a joint subcommittee to study the development of Urban Development Areas in Virginia's localities. The two-year study will examine and monitor the transition to channeling development into Urban Development Areas, and determine if additional legislation is needed to help localities as they transition to Urban Development Areas.

Patron: Athey

SJ 70 Study; required and voluntary incorporation of urban development areas into localities.

Summary as introduced: **Study; required and voluntary incorporation of urban development areas into localities' comprehensive plans; report.** Establishes a Senate joint subcommittee to study the required and voluntary incorporation of urban development areas into localities' comprehensive plans.

Patron: Vogel

PRINCIPAL PROVISIONS OF SB 768

1. Repeal current cash proffer authority for all localities

- a. Effective January 1, 2009. [e.g., Line 21]
- b. Any proffers pledged but not paid at date of repeal are grandfathered. [Lines 730-732]

2. Non-cash proffers

- a. Localities may accept 'reasonable' non-cash on-site proffers "necessitated by and attributable to" new development from "within the property subject to rezoning petition." [e.g., Lines 87-91]
- b. Localities may not accept non-cash off-site proffers for new residential development or the residential portion of a mixed use development. [e.g., Lines 92-95]
- c. Localities may only accept non-cash off-site transportation improvement proffers for new non-residential development or the non-residential portion of a mixed use development. [e.g., Lines 95-97]

3. Amend existing road impact fee authority

- a. All cities, Fairfax and Arlington Counties and the towns therein, and any county that adopted zoning and has either (i) a decennial population growth rate of 15% or more or (ii) a population of at least 20,000 persons and a decennial population growth rate of 10% or more and the towns therein are authorized to impose impact fees on residential and commercial (includes industrial) development. [Lines 410-416]
 - i. **15% or more growth rate:** Accomack, Albemarle, Amelia, Augusta, Bedford, Botetourt, Brunswick, Buckingham, Caroline, Chesterfield, Craig, Culpeper, Cumberland, Dinwiddie, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Isle of Wight, James City, King George, King William, Loudoun, Louisa, Lunenburg, New Kent, Northumberland, Orange, Powhatan, Prince George, Prince William, Richmond, Rockingham, Spotsylvania, Stafford, Sussex, Warren, and York.
 - ii. **20,000 population and a 10% growth rate:** Amherst, Fauquier, Mecklenburg, Montgomery, Pittsylvania Rockbridge, Shenandoah, and Washington.
- b. Impact fee may only be charged for public facility improvements "necessitated by and attributable to" new development [current standard is "benefiting"] at a level of service consistent with existing levels of service in the locality. [Lines 427-432]
 - i. Public facility improvements are defined as public road, public safety (police, fire, EMS, and rescue) facilities, and public school facilities. [Line 439]
- c. Residential impact fees may be imposed only for public roads, public safety facilities and public school facilities.

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- d. Commercial impact fees may only be imposed for public roads and public safety facilities. [Line 471-472]
- e. Impact fees may only be imposed within an impact fee service area (IFSA).
 - i. IFSA must be designated by ordinance on the zoning map and in the comprehensive plan, must have clearly defined boundaries, and clearly related public facility needs that have a rational and reasonable relationship to projected new development. [Lines 433-437]
 - ii. Locality-wide IFSA's are barred. [Lines 481-482]
- f. Additional items to be considered in analyzing the public facility needs of an IFSA:
 - i. Approved conditional zonings, special exceptions, and special use permits. [Line 511]
 - ii. Future revenues generated by the new development for needed public facilities. [Lines 528-529]
 - iii. Any increased Grantors Tax to be paid within the IFSA. [Lines 529-530]
 - iv. Any funds received from the federal, state, or local governments to pay for the public facilities for which the impact fee is imposed. [Lines 530-532]
- g. Impact fees would apply to all residential and commercial rezonings and any by-right residential and commercial development within an impact fee service area.
- h. Impact fees would apply at final subdivision or final site plan approval and recordation.
- i. All administrative, planning, and capital improvement assessment and funding requirements of current impact fee law would continue to apply. [Lines 491-572]
- j. A cap on impact fees would apply to the NVTA area and the balance of the state. [Line 587ff]
 - i. Maximum residential fee in NVTA = \$8,000 per single family detached.
 - ii. Maximum residential fee in balance of state = \$5,000 per single family detached unit.
 - 1. Specified cap also for single family attached and multifamily.
 - iii. Commercial cap same for both areas and specified in dollars per gross square foot for various uses.
 - iv. Cap may be adjusted annually based on CPI or Marshall Swift index.
- k. Impact fees may not be imposed on any residential dwelling units covered by a locality's Affordable Dwelling Unit ordinance or any Section 8 housing. [Line 475ff]
- l. Impact fees may be reduced or waived for development in an Urban Development Area. [Lines 473-474]

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- m. Credit against the impact fee must be given to the new development paying the fee for the following:
 - i. Market value of land dedications, cash contributed, and construction provided by the developer to pay the impact fee for on-site and off-site "public facilities."
 - ii. Previous, current and future contributions by other developments in the IFSA to the cost of existing "public facilities" that will benefit the development to pay the impact fee. [Line 649-655]
 - 1. Revenues to be derived special taxing districts, special assessments, and community development authorities are to be included.
4. **Require an increase local grantors tax**
- a. Any locality outside of the NVTa and HRTA that adopts an impact fee would be required to increase its Grantors Tax by no more than 20¢/\$100 of value on the sale of both existing and new residential and commercial properties. [Lines 710-718]

SUMMARY

