

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**Development and Land Use
Tools in Virginia's Localities
[HJR 135/SJR 89 (2010)]**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 16

**COMMONWEALTH OF VIRGINIA
RICHMOND 2010**

**Joint Subcommittee Studying Development
and Land Use Tools in Virginia's Localities**

HOUSE JOINT RESOLUTION NO. 178 (2008)

SENATE JOINT RESOLUTION NO. 70 (2008)

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

FINAL REPORT

- I. INTRODUCTION
- II. HOUSE JOINT RESOLUTION 178 (2008) [ENABLING AUTHORITY]
 - RESOLUTION
 - SUMMARY
- III. SENATE JOINT RESOLUTION 70 (2008) [ENABLING AUTHORITY]
 - RESOLUTION
 - SUMMARY
- IV. VIRGINIA CODE § 15.2-2223.1
- V. EXECUTIVE SUMMARIES
 - A. HOUSE DOCUMENT No. 23 (2008)
 - B. 2009 EXECUTIVE SUMMARY
- VI. SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
 - A. SEPTEMBER 11, 2008
 - B. OCTOBER 9, 2008
 - C. NOVEMBER 12 2008
 - D. JANUARY 13, 2009
 - E. JUNE 18, 2009
 - F. DECEMBER 4, 2009
 - G. JANUARY 12, 2010
- VII. LEGISLATIVE RECOMMENDATIONS
 - HOUSE BILL 2322 (2009)
 - SUMMARY
 - TEXT
 - HOUSE BILL 1013 (2010)
 - SUMMARY
 - TEXT

SENATE BILL 418 (2010)

- SUMMARY
- TEXT

HOUSE JOINT RESOLUTION 135 (2010)

- SUMMARY
- TEXT

SENATE JOINT RESOLUTION 89 (2010)

- SUMMARY
- TEXT

VIII. CONCLUSION

I. INTRODUCTION

On March 12, 2008, the Virginia General Assembly passed House Joint Resolution 178 and Senate Joint Resolution 70. These identical (or companion) joint resolutions established a joint subcommittee to study development and land use tools in Virginia's localities. According to these companion joint resolutions, "[t]he joint subcommittee shall have a total membership of 10 members that shall consist of eight legislative members and two ex officio members." The Speaker of the House of Delegates is responsible for appointing "five members of the House of Delegates . . . in accordance with the principles of proportional representation contained in the Rules of the House of Delegates." In 2008, the Speaker of the House of Delegates appointed the following delegates to the joint subcommittee: the Honorable Clifford L. Athey, Jr.; the Honorable Robert D. Orrock; the Honorable Glenn Oder; the Honorable Paula J. Miller; and the Honorable David J. Toscano. In addition, the Senate Committee on Rules is tasked with appointing three members of the Senate as joint subcommittee members. In 2008, the Senate Committee on Rules appointed as joint subcommittee members: the Honorable Jill Holtzman Vogel; the Honorable L. Louise Lucas; and the Honorable Mark R. Herring. The joint subcommittee is also comprised of two ex officio members. In 2008 and 2009, the ex officio members are Secretary of Commerce and Trade Patrick O. Gottschalk, or his designee, and Secretary of Transportation Pierce Homer, or his designee. The joint subcommittee elected the Honorable Clifford L. Athey, Jr., and the Honorable Jill Holtzman Vogel as its chairman and vice-chairman, respectively.

The companion joint resolutions recognized that "the 2007 Session of the Virginia General Assembly, as part of its Transportation Financing Package, directed that most new development in the Commonwealth occur in Urban Development Areas so that growth can occur in a more orderly fashion in areas where the necessary infrastructure has either been built or can be built in a more efficient manner." The resolution, however, asked the joint subcommittee formed by the resolution to "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." To that end, the joint subcommittee met three times in 2008 and three times in 2009. During those meetings, the joint subcommittee heard testimony from professors, urban planners, state and local government officials, and persons representing real estate developers.

This final report details the testimonies given at the aforementioned six meetings. Part II of this report includes the House joint resolution creating the joint subcommittee studying development and land use tools in Virginia's localities and the resolution's summary. Similarly, Part III of the report is the companion Senate joint resolution that establishes the joint subcommittee studying development and land use tools in Virginia's localities and that resolution's summary. Next, Part IV is the statutory text of Va. Code § 15.2-2223.1, the section of the Code of Virginia that governs, generally, urban development areas. Part V contains the 2008 and 2009 executive summaries, which House Joint Resolution 178 and Senate Joint Resolution 70 require to be prepared. Similarly, Part VI contains each summary of each meeting held by the joint subcommittee. Parts VII of this final report contains the joint subcommittee's legislative recommendations. The report concludes with an overview of the testimony heard and legislative recommendations made by the joint subcommittee.

II. HOUSE JOINT RESOLUTION 178 (2008)

2008 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 178

Establishing a joint subcommittee to study development and land use tools in Virginia's localities. Report.

Agreed to by the House of Delegates, March 5, 2008

Agreed to by the Senate, March 4, 2008

WHEREAS, the 2007 Session of the Virginia General Assembly, as part of its Transportation Financing Package, directed that most new development in the Commonwealth occur in Urban Development Areas so that growth can occur in a more orderly fashion in areas where the necessary infrastructure has either been built or can be built in a more efficient manner; and

WHEREAS, the concentration of development into Urban Development Areas will reduce urban sprawl, reduce the cost of upgrading Virginia's transportation networks, and reduce the environmental impact of a rapidly growing Virginia population; and

WHEREAS, in 2007 Virginia required its localities to include Urban Development Areas within their comprehensive plan updates by 2011; and

WHEREAS, the General Assembly needs to monitor the transition of most new development to Urban Development Areas and may need to propose additional legislation as such transition to Urban Development Areas progresses; and

WHEREAS, in addition to Urban Development Areas, there are a variety of additional land use planning tools and infrastructure financing options available to localities; and

WHEREAS, the General Assembly needs to take a comprehensive look at the various land use planning tools and infrastructure financing options, both new and old, and make appropriate recommendations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study development and land use tools in Virginia's localities. The joint subcommittee shall have a total membership of 10 members that shall consist of eight legislative members and two ex officio members. Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules. The Secretary of Commerce and Trade and the Secretary of Transportation or their designees shall serve ex officio with voting privileges. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall 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. The joint subcommittee shall also make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Transportation and the Department of Housing and Community Development. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2008 interim and four meetings for the 2009 interim, and the direct costs of this study shall not exceed \$8,000 for each year without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

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No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings for the first year by November 30, 2008, and for the second year by November 30, 2009, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2008 or 2009 interim.

HJ 178 Development and land use tools; joint subcommittee to study.

Establishing a joint subcommittee to study development and land use tools in Virginia's localities. Report.

Summary as passed House:

Study; Urban Development Areas; report. Establishes a joint subcommittee to study development and land use tools 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. The joint subcommittee shall also make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options, as well as consider matters addressed in HJR 22 (2008). This resolution incorporates HJR 22 (Marshall, R.G.).

Patron: Athey

03/04/08 Senate: Agreed to by Senate with substitute by voice vote

03/05/08 House: Placed on Calendar

03/05/08 House: Senate substitute agreed to by House 084257338-S1 (99-Y 0-N)

03/05/08 House: VOTE: --- ADOPTION (99-Y 0-N)

YEAS--Abbitt, Albo, Alexander, Amundson, Armstrong, Athey, BaCote, Barlow, Bell, Bouchard, Bowling, Brink, Bulova, Byron, Caputo, Carrico, Cline, Cole, Cosgrove, Cox, Crockett-Stark, Dance, Ebbin, Eisenberg, Englin, Fralin, Frederick, Gear, Gilbert, Griffith, Hall, Hamilton, Hargrove, Hogan, Howell, A.T., Hugo, Hull, Iaquinto, Ingram, Janis, Joannou, Johnson, Jones, D.C., Jones, S.C., Kilgore, Landes, Lewis, Lingamfelter, Lohr, Loupassi, Marsden, Marshall, D.W., Massie, Mathieson, May, McClellan, Melvin, Merricks, Miller, J.H., Miller, P.J., Moran, Morgan, Morrissey, Nichols, Nixon, Nutter, O'Bannon, Oder, Orrock, Peace, Phillips, Plum, Pogge, Poindexter, Poisson, Pollard, Purkey, Putney, Rust, Saxman, Scott, E.T., Scott, J.M., Shannon, Sherwood, Shuler, Sickles, Spruill, Suit, Tata, Toscano, Tyler, Valentine, Vanderhye, Ward, Ware, O., Ware, R.L., Watts, Wright, Mr. Speaker--99.

NAYS--0.

ABSTENTIONS--0.

NOT VOTING--Marshall, R.G.--1.

03/12/08 House: Bill text as passed House and Senate (HJ178ER)

III. SENATE JOINT RESOLUTION 70 (2008)

2008 SESSION

ENROLLED

SENATE JOINT RESOLUTION NO. 70

Establishing a joint subcommittee to study development and land use tools in Virginia's localities. Report.

Agreed to by the Senate, March 6, 2008

Agreed to by the House of Delegates, March 5, 2008

WHEREAS, the 2007 Session of the Virginia General Assembly, as part of its Transportation Financing Package, directed that most new development in the Commonwealth occur in Urban Development Areas so that growth can occur in a more orderly fashion in areas where the necessary infrastructure has either been built or can be built in a more efficient manner; and

WHEREAS, the concentration of development into Urban Development Areas will reduce urban sprawl, reduce the cost of upgrading Virginia's transportation networks, and reduce the environmental impact of a rapidly growing Virginia population; and

WHEREAS, in 2007, Virginia required its localities to include Urban Development Areas within their comprehensive plan updates by 2011; and

WHEREAS, the General Assembly needs to monitor the transition of most new development to Urban Development Areas and may need to propose additional legislation as such transition to Urban Development Areas progresses; and

WHEREAS, in addition to Urban Development Areas, there are a variety of additional land use planning tools and infrastructure financing options available to localities; and

WHEREAS, the General Assembly needs to take a comprehensive look at the various land use planning tools and infrastructure financing options, both new and old, and make appropriate recommendations; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study development and land use tools in Virginia's localities. The joint subcommittee shall have a total membership of 10 members that shall consist of eight legislative members and two ex officio members. Members shall be appointed as follows: three members of the Senate to be appointed by the Senate Committee on Rules and five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. The Secretary of Commerce and Trade and the Secretary of Transportation or their designees shall serve ex officio with voting privileges. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall 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. The joint subcommittee shall also make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Transportation and the Department of Housing and Community Development. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2008 interim and four meetings for the 2009 interim, and the direct costs of this study shall not exceed \$8,000 for each year without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written

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authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings for the first year by November 30, 2008, and for the second year by November 30, 2009, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2008 or 2009 interim.

SJ 70 Development and land use tools; joint subcommittee to study.

Establishing a joint subcommittee to study development and land use tools in Virginia's localities. Report.

Summary as passed:

Study; Development and land use tools in Virginia localities. Establishes a joint subcommittee to study development and land use tools in Virginia's localities. In conducting its study, the joint subcommittee shall 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. The joint subcommittee shall also make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate. This resolution is identical to HJR 178 (Athey).

Patron: Vogel

03/05/08 House: Engrossed by House - committee substitute SJ70H1

03/05/08 House: Agreed to by House with substitute BLOCK VOTE (97-Y 0-N)

03/05/08 House: VOTE: BLOCK VOTE PASSAGE (97-Y 0-N)

YEAS--Abbitt, Albo, Alexander, Amundson, Armstrong, Athey, BaCote, Barlow, Bell, Bouchard, Bowling, Brink, Bulova, Byron, Caputo, Carrico, Cline, Cole, Cosgrove, Cox, Crockett-Stark, Dance, Ebbin, Eisenberg, Englin, Fralin, Frederick, Gear, Gilbert, Griffith, Hall, Hamilton, Hargrove, Hogan, Howell, A.T., Hugo, Hull, Iaquinto, Ingram, Joannou, Johnson, Jones, D.C., Jones, S.C., Kilgore, Landes, Lewis, Lingamfelter, Lohr, Loupassi, Marsden, Marshall, D.W., Massie, Mathieson, May, McClellan, Melvin, Merricks, Miller, J.H., Miller, P.J., Moran, Morrissey, Nichols, Nixon, Nutter, O'Bannon, Oder, Orrock, Peace, Phillips, Plum, Pogge, Poindexter, Poisson, Pollard, Purkey, Putney, Rust, Saxman, Scott, E.T., Scott, J.M., Shannon, Sherwood, Shuler, Sickles, Spruill, Suit, Tata, Toscano, Tyler, Valentine, Vanderhye, Ward, Ware, O., Ware, R.L., Watts, Wright, Mr. Speaker--97.

NAYS--0.

ABSTENTIONS--0.

NOT VOTING--Janis, Marshall, R.G., Morgan--3.

03/06/08 Senate: House substitute agreed to by Senate by voice vote

03/12/08 Senate: Bill text as passed Senate and House (SJ70ER)

IV. VIRGINIA CODE § 15.2-2223.1

§ 15.2-2223.1. Comprehensive plan to include urban development areas; new urbanism.

A. Every county, city, or town that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 and that (i) has a population of at least 20,000 and population growth of at least 5% or (ii) has population growth of 15% or more, shall, and any county, city or town may, amend its comprehensive plan to incorporate one or more urban development areas. For purposes of this section, population growth shall be the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. For purposes of this section, an urban development area is an area designated by a locality that is appropriate for higher density development due to proximity to transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town, or other developed area. The comprehensive plan shall provide for commercial and residential densities within urban development areas that are appropriate for reasonably compact development at a density of at least four residential units per gross acre and a minimum floor area ratio of 0.4 per gross acre for commercial development. The urban development areas may provide for a mix of residential housing types, including affordable housing, to meet the projected family income distributions of future residential growth. The comprehensive plan shall designate one or more urban development areas sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Future growth shall be based on official estimates and projections of the Weldon Cooper Center for Public Service of the University of Virginia or other official government sources. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the update of the comprehensive plan and in accordance with the most recent available population growth estimates and projections. Such districts may be areas designated for redevelopment or infill development.

B. The comprehensive plan shall further incorporate principles of new urbanism and traditional neighborhood development, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) satisfaction of requirements for stormwater management, (vi) mixed-use neighborhoods, including mixed housing types, (vii) reduction of front and side yard building setbacks, and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections.

C. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

D. No county, city, or town that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.

E. Any county, city, or town that would be required to amend its plan pursuant to this section that determines that its plan accommodates growth in a manner consistent with this section, upon adoption of a resolution certifying such compliance, shall not be required to further amend its plan.

F. Any county that amends its comprehensive plan pursuant to this section may designate one or more urban development areas in any incorporated town within such county, if the governing body of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county.

G. To the extent possible, state and local transportation, housing, and economic development funding shall be directed to the urban development area.

(2007, c. 896; 2009, c. 327.)

V. EXECUTIVE SUMMARIES
A. HOUSE DOCUMENT NO. 23 (2008)

Document Title

Development and Land Use Tools in Virginia's Localities

Author

Joint Subcommittee

Enabling Authority

HJR 178/SJR70 (2008)

Executive Summary

Joint Subcommittee Studying Development and Land Use Tools in Virginia's Localities
(HJR 178/SJR70 (2008))

During the 2008 Session of the General Assembly, the General Assembly passed both HJR 178 and SJR 70, which established a joint subcommittee to study development and land use tools in Virginia's localities.

Delegate Athey, the patron of HJR 178, served as chairman of the joint subcommittee, and Senator Vogel, the patron of SJR 70, served as vice-chairman of the joint subcommittee. Other legislative members of the joint subcommittee were Delegates Orrock, Oder, Miller, and Toscano and Senators Lucas and Herring. The Secretary of Transportation, Pierce R. Homer, or his designee, and the Secretary of Commerce and Trade, Patrick O. Gottschalk, or his designee also served as the ex officio members of the joint subcommittee. The joint subcommittee met three times during 2008 on September 11, October 9, and November 12. The joint subcommittee will also meet on January 13, 2009.

The joint subcommittee was instructed to "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."

In addition, the joint subcommittee was requested to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate."

In furtherance of the resolutions' aims, the joint subcommittee studied "development and land use tools in Virginia's localities." To that end, the joint subcommittee heard testimony on September 11, 2008, from Matthew G. Bolster, AICP, *Senior Policy Analyst*, Commission on Local Government, Virginia Department of Housing and Community Development, who described, generally, land use planning in the Commonwealth and how planning and tools available in planning relate to urban development areas. Also, Ted McCormack, AICP, *Director of Governmental Affairs*, Virginia Association of Counties,

delivered a presentation that discussed Virginia counties' views toward the statute governing urban development, statutorily authorized infrastructure financing, and "areas for further investigation." Additionally, Lisa M. Guthrie, *Executive Director*, Virginia League of Conservation Voters; Chris Miller, *President*, Piedmont Environmental Council; Oliver A. "Trip" Pollard III, *Senior Attorney*, Southern Environmental Law Center; and Stewart Schwartz, *Executive Director*, Coalition for Smarter Growth all gave presentations to the joint subcommittee on September 11, 2008.

On, October 9, 2008, the joint subcommittee heard reports from the three workgroups established by the joint subcommittee. Work Group # 1 is charged with answering how can the legislative goals intended by the UDA statute be furthered through amendment to the statutes governing proffers and impact fees. Work Group # 2 is charged with answering what is necessary legislatively to better promote cooperation between a locality establishing an urban development area and those public and private entities necessary to the establishment of a successful urban development area (e.g., state agencies, utility companies serving that locality, redevelopment and housing authorities, incorporated towns within or neighboring the locality). Work Group # 3 is charged with answering how the statute governing urban development areas can be enforceable and less prone to differing interpretations. Michael L. Toalson, *Executive Vice-President*, Home Builders Association of Virginia, delivered a presentation to the joint subcommittee, sharing the reaction of the Home Builders Association of Virginia to the legislative prescription of urban development areas, suggested amendments to § 15.2-2223.1 of the Code of Virginia, and listed principles relating to conditional zoning (proffers) that the Home Builders Association of Virginia believe should guide infrastructure financing. Peter M. Stephenson, *Town Manager*, Town of Smithfield, delivered a presentation that centered on a discussion of conditional zoning and impact fees and how cash proffers, quantitatively, help furnish capital improvements undertaken by localities.

On November 12, 2008, the joint subcommittee heard testimony from William Lecos, *Member (Mason District)*, Tysons Land Use Task Force, who discussed planning and urban design for Tysons Corner and how the task force carried out its mission to transform Tysons Corner "from suburbia to a truly urban place" that is "built for people, not for cars." Dr. Sheryl Bailey, *Executive Director*, Virginia Resources Authority, delivered a presentation to the joint subcommittee on how existing Virginia Resources Authority tools can augment development by either establishing a Virginia Resources Authority revolving loan fund for local infrastructure or combining initial capital investment with the existing Virginia Resources Authority Pooled Financing Program to maximize impact, provided the General Assembly first defines loan eligibility criteria. Nick Donohue, *Assistant Secretary of Transportation*, Office of the Secretary of Transportation, delivered a presentation to the joint subcommittee relating to new secondary street acceptance requirements and noted how pedestrian accommodations required in the secondary street acceptance requirements are generally based on density and specifically stated what types of accommodations, if any, are required depending on the lot size. Mr. Alan Pollock, *Water Quality Program Manager*, Virginia Department of Environmental Quality delivered a presentation relating point source nutrient load caps to urban development areas, by noting that "nutrient loads discharged from treatment plants are capped [but] growth is not," and "lots of creative possibilities [are] provided through the Nutrient Credit Exchange Program." Finally, Mr. Jack Frye, *Director, Division of Soil and Water Conservation*, Virginia Department of

Conservation and Recreation, testified to the key areas of compatibility that exist between the statutory requirements for urban development area (e.g., "satisfaction requirements for stormwater management...and reduction of subdivision street widths...)" and the proposed stormwater management regulatory requirements (e.g., reduction of impervious cover, such as narrower streets, reducing best management practice requirements).

On January 13, 2009, the joint subcommittee will hear reports from the workgroups described above. The joint subcommittee will also likely discuss and adopt a plan of action for the remaining 2009 meetings.

No formal report embodying any legislative recommendations of the joint subcommittee will be submitted as a House or Senate Document to the 2009 Session. The joint subcommittee will meet, as authorized, in 2009 after the adjournment of the 2009 Session.

The joint subcommittee's Internet website can be found at: <http://dls.virginia.gov/DLUT.htm>.

V. EXECUTIVE SUMMARIES
B. 2009 EXECUTIVE SUMMARY

Document Title

Development and Land Use Tools in Virginia's Localities

Author

Joint Subcommittee

Enabling Authority

HJR 178/SJR70 (2008)

Executive Summary

Joint Subcommittee Studying Development and Land Use Tools in Virginia's Localities
(HJR 178/SJR70 (2008))

During the 2008 Session of the General Assembly, the General Assembly passed both HJR 178 and SJR 70, which established a joint subcommittee to study development and land use tools in Virginia's localities.

Delegate Athey, the patron of HJR 178, served as chairman of the joint subcommittee, and Senator Vogel, the patron of SJR 70, served as vice-chairman of the joint subcommittee. Other legislative members of the joint subcommittee were Delegates Orrock, Oder, Miller, and Toscano and Senators Lucas and Herring. The Secretary of Transportation, Pierce R. Homer, or his designee, and the Secretary of Commerce and Trade, Patrick O. Gottschalk, or his designee also served as the ex officio members of the joint subcommittee. The joint subcommittee met three times on January 13, 2009, June 18, 2009, and December 4, 2009.

The joint subcommittee was instructed to "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."

In addition, the joint subcommittee was requested to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate."

In furtherance of the resolutions' aims, the joint subcommittee studied "development and land use tools in Virginia's localities." To that end, the joint subcommittee heard testimony on January 13, 2009, from Ms. Bonnie France, a partner at McGuire Woods. Ms. France's presentation, entitled "Community Development Authorities," included a discussion of the legislative history, statutorily prescribed characteristics, creation, purposes, powers, benefits of, and proposed legislation affecting, community development authorities. Dr. Sheryl Bailey, Executive Director of the Virginia Resources Authority, delivered remarks to the joint subcommittee relating to the financing of community development authorities in urban development areas. Specifically, Dr.

Bailey explained that allowing VRA to assist in the financing of community development authorities could create competition between community development authorities and local governments over the financial resources provided by VRA. Finally, the three work groups established by the joint subcommittee made recommendations to the joint subcommittee; the recommendations related to the work groups' subject matter jurisdiction [Work Group # 1 - (Proffers vs. Impact Fees); Work Group # 2 - (Cooperation with State/Regional/Local Public Entities; Cooperation with Utilities); Work Group # 3 - (Enforcement/Clarification of UDA Statute)].

At its meeting on June 18, 2009, the joint subcommittee heard testimony from Mr. Eric Lawrence, Director of the Department of Planning and Development for Frederick County. Mr. Lawrence talked to the subcommittee about the urban development area Frederick County has had for about 20 years and how proposed legislation (created to foster discussion about possible amendments to the statute governing urban development areas) would affect the county. In addition, Ms. Mary Ann Curtin, Director of Intergovernmental Relations for Chesterfield County, provided the report of the joint subcommittee's Workgroup # 1, the group charged with discussing the legislation relating to conditional zoning and impact fees. According to Ms. Curtin, the general consensus of the members of Workgroup # 1 was that the proposed legislation (created to foster discussion about possible amendments to the statutes governing impact fees), as written, needs to be completely reworked. Furthermore, Ms. Lisa Guthrie, Executive Director of the Virginia League of Conservation Voters, provided a detailed report of the work done by Workgroups # 2 and 3. These workgroups went through the proposed legislation (created to foster discussion about possible amendments to the statute governing urban development areas) line by line to propose changes.

On December 4, 2009, the joint subcommittee heard testimony relating to impact fees. Mr. James B. Duncan, FAICP, President of Duncan Associates, described the evolution of impact fees in America and then detailed the elements, in his opinion, of the perfect legislation authorizing impact fees. In addition, Mr. Arthur C. Nelson, Ph.D., FAICP, *Presidential Professor* at the University of Utah College of Architecture & Planning, also presented an overview of impact fees. He noted safeguards that must accompany the use of impact fees, discussed the use of impact fees, and explained that local impact fees may be imposed to promote infill and redevelopment, economic development, and workforce housing. Finally, Mr. Carson Bise, AICP, *President* of TischlerBise, discussed the current funding options for local capital improvements in Virginia, gave an overview of cash proffers, discussed his perceived challenges of current road impact fee authority, and suggested that the collection of impact fees and the collection of cash proffers can be both done in a single locality.

At its January 12, 2010, meeting, the joint subcommittee will likely discuss and vote upon legislative recommendations.

No formal report embodying any legislative recommendations of the joint subcommittee will be submitted as a House or Senate Document to the 2010 Session.

The joint subcommittee's Internet website can be found at: <http://dls.virginia.gov/DLUT.htm>.

VI. SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
A. SEPTEMBER 11, 2008

On September 11, 2008, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its first meeting at 10:00 am in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring "the transition to channeling development into Urban Development Areas, and" determining "if additional legislation is needed to help localities as they transition to Urban Development Areas." Moreover, the aforementioned resolutions require the joint subcommittee to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate." The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Legislative members of the joint subcommittee in attendance were Delegates Athey, Oder, Miller, and Toscano and Senators Vogel and Lucas. Members who serve ex officio in attendance were Secretary Homer and Alex Daniel, a designee for the Secretary of Commerce.

Members of the joint subcommittee elected Delegate Athey and Senator Vogel, who successfully introduced House Joint Resolution 178 and Senate Joint Resolution 70, respectively, as chairman and vice-chairman of the joint subcommittee, respectively. Delegate Athey and Senator Vogel then called delivered opening remarks.

Matthew G. Bolster, AICP, Senior Policy Analyst,
Commission on Local Government
Virginia Department of Housing and Community Development.

Mr. Bolster delivered the first presentation to the joint subcommittee; the purpose of his presentation was to describe, generally, land use planning in the commonwealth and how planning and tools available in planning relate to urban development areas. To begin, Mr. Bolster described the statutory purpose and mandates of the statutes governing comprehensive plans. He, however, explained that planning by localities is affected by regional and state public entities, such as the Virginia Department of Transportation, park authorities, and metropolitan planning organizations, which plan independent of localities. Also, Mr. Bolster suggested that the lack of a mandate requiring localities to follow their comprehensive plans or adopt zoning ordinances to match their plans limit the effectiveness of localities' comprehensive plans. After discussing attributes of an effective comprehensive plan, Mr. Bolster discussed "land use regulation and infrastructure financing," including the requirements and purposes of subdivision and zoning ordinances, proffers, bonded debt, and impact fees. Finally, Mr. Bolster explained the relevance of his earlier discussion to urban development areas.

Ted McCormack, AICP
Director of Governmental Affairs,
Virginia Association of Counties

Mr. McCormack delivered a presentation that discussed Virginia counties' views towards the statute governing urban development, statutorily authorized infrastructure financing, and "areas for further investigation." First, Mr. McCormack explained the statutory policy behind and requirements of the statute governing urban development areas. He then detailed the different reactions counties have expressed towards the statute. After noting potential conflicts between the statute regulating urban development areas and state regulations, Mr. McCormack suggested that there must be incentives to developers to direct growth in urban development areas, e.g., fast development approval process for developers who develop according to prescribed densities in urban development areas. Likewise, incentives (e.g., financing mechanisms) must exist for counties to direct growth in urban development areas in order for such areas to thrive. Mr. McCormack transitioned from the idea of financing mechanisms incenting counties to direct growth in urban development areas to the current means by which Virginia counties fund infrastructure caused by growth (e.g., real property taxes, proffers, road impact fees, bonds).

Lisa M. Guthrie, Executive Director, Virginia League of Conservation Voters;
Chris Miller, President, Piedmont Environmental Council;
Oliver A. "Trip" Pollard III, Senior Attorney, Southern Environmental Law Center;
Stewart Schwartz, Executive Director, Coalition for Smarter Growth

Ms. Guthrie first outlined the presentations to be delivered by Mr. Chris Miller, *President, Piedmont Environment Council*, Mr. Oliver A. "Trip" Pollard III, *Senior Attorney, Southern Environmental Law Center*, and Mr. Stewart Schwartz, *Executive Director, Coalition for Smarter Growth*. Mr. Miller illustrated the large increase in planned growth in Northern Virginia through the use of the 1967 Regional Plan for Northern Virginia and the 1994 Northern Virginia Planning District Commission composite general land use plan. In addition, Mr. Pollard discussed legislative measures that tied together transportation and land use planning, including urban development areas, impact fees, urban transportation service districts, expanded proffer authority, mandatory clustering ordinances, etc. He suggested the General Assembly "promote revitalization of cities, towns and older suburbs where" infrastructure currently exists, "promote investments in existing infrastructure," and provide "incentives for regional cooperation." Finally, Mr. Schwartz shared case studies that demonstrate planning by Albemarle, Arlington, Fauquier, Frederick, and Loudoun Counties "for growth and efforts to design development within designated growth areas."

Representatives from the Virginia Municipal League and the Home Builders Association of Virginia, who were originally scheduled to present at the meeting, will deliver presentations at the next meeting, which is scheduled for October 9, 2008 at 10 am.

**SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
B. OCTOBER 9, 2008**

On October 9, 2008, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its second meeting at 10:00 am in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring "the transition to channeling development into Urban Development Areas, and" determining "if additional legislation is needed to help localities as they transition to Urban Development Areas." Moreover, the aforementioned resolutions require the joint subcommittee to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate." The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Legislative members of the joint subcommittee in attendance were Delegates Athey, Oder, Miller, and Toscano and Senator Herring. Members who serve ex officio in attendance were Pierce Homer, Secretary of Transportation, and Alleyn Harned, Assistant Secretary of Commerce and Trade and designee for the Secretary of Commerce.

Work Group # 1

Delegate Glenn Oder, Chair of Work Group # 1, reported the workings of Work Group # 1, which met at 8:30 am in the 5th Floor East Conference room on October 9, 2008. Delegate Oder chaired the work group meeting and others in attendance included the Hon. Pierce Homer, Mary Ann Curtin, Bill Ernst, Douglas R. Fahl, Brian M. Gordon, George H. Homewood, Ted McCormack, Stuart Mendelsohn, Chris Miller, Trip Pollard, Randall R. Silber and Mike Toalson.

Work Group # 1 is tasked with answering the following questions:

- A. Can, and how, cash proffers/impact fees be utilized within an Urban Development Area (UDA) to encourage development near water/sewer/other infrastructure and discourage development that is not near water/sewer/other infrastructure?
- B. Can, and how, cash proffers/impact fees be used to enhance local infrastructure financing, promote higher density inside UDAs, protect farmland/forests/open space?
- C. Do either the statutes for cash proffers/impact fees or Urban Development Areas need to be amended to further the legislative goals in the UDA law?
- D. What is this group's role in relation to the Speaker's group negotiating SB768 from the 2008 session?
- E. What is the appropriate relationship between the financing tools (cash proffers/impact fees) and the land use tool (UDA)?

F. What is this group's role in shaping future state policy?

Work Group # 1 discussed each of these questions and reported to the subcommittee that there was consensus on incentivizing increased density in urban development areas but no consensus on discouraging development in other areas of a locality through increased fees. There was also agreement among work group members that cash proffers and impact fees should not be considered a reliable source of local government funding due to their unpredictability and their nature as a one-time fee. It was also determined that issues related to the cash proffer system and impact fees were better left at this time to the group that has been asked to negotiate those issues during the 2008 interim. Finally, the work group agreed that the use of community development authorities (CDAs) for purposes of local infrastructure development warranted further investigation by the work group and that a future presentation on CDAs may be appropriate.

Work Group # 2

Lisa Guthrie, Vice-Chair of Work Group # 2, reported the workings of Work Group #2, which met at 8:30 am in the 5th West Floor Conference Room on October 9, 2008. Vice-Chair Lisa Guthrie chaired the meeting; ex-officio members of Work Group #2 in attendance were Nicholas Donohue (designee of Secretary of Transportation) and Alleyn Harnard (designee of Secretary of Commerce and Trade). Other members of Work Group # 2 in attendance were Tyler Craddock, Michael Edwards, M. Barrett Hardiman, Martin Johnson, Terri Pace, Sue Rowland, Sterling Rivers, Michele Satterlund, Stewart Schwartz, Roger Wiley, and Susan Bass Williams.

Work group 2 is tasked with answering the following question and parts thereto:

What is necessary legislatively to better promote cooperation between a locality establishing an urban development area and those public and private entities necessary to the establishment of a successful urban development area (e.g., state agencies, utility companies serving that locality, redevelopment and housing authorities, incorporated towns within or neighboring the locality)?

- A. Should the duties of the Commission on Local Government be expanded to better promote a locality's establishment of an urban development area?
- B. What is the appropriate role of the state in establishing and furthering urban development areas?
- C. Can state regulations that prevent the successful development of urban development areas be amended to avoid such prevention?
- D. What role can regional planning district commissions play in helping establishing the locations of urban development areas?
- E. How can counties and incorporated towns within such counties be encouraged to designate the incorporated towns as urban development areas?
- F. What role do boundary adjustments play in furthering development near municipal water and sewer lines?
- G. Can the transfer of development rights statute be amended to promote counties establishing urban development areas in towns?

Work Group # 2 discussed, in detail, (1) the appropriate role of the commonwealth in establishing and furthering urban development areas and (2) regulations that prevent the successful development of urban development areas. First, and respectively, the group discussed the advantages and disadvantages of the Commission on Local Government, a commission within the Department of Housing and Community Development, providing technical assistance to localities in planning urban development areas; noting staff limitations, the group discussed the role of regional planning commissions with respect to planning urban development areas. Second, several members of the Work Group # 2 discussed the impact that recently promulgated regulations relating to nutrient caps, sewer capacity, etc, would have on intensifying development in counties that whose existing dense development relies on private water wells and septic systems, as opposed to sewer lines and waterlines.

Work Group # 3

Matthew Bolster, AICP, Senior Policy Analyst, Commission on Local Government. Virginia Department of Housing and Community Development, reported the workings of Work Group # 3, which met at 10 am on October 2, 2008 in Richmond, VA. Vice-Chair Chip Dicks chaired the meeting; legislative members who participated in the meeting, via electronic means, were Senator Vogel, Chair of Work Group # 3, and Delegates Athey and Paula Miller.

Work group 3 is tasked with answering the following question and parts thereto.

How can the statute governing urban development areas be enforceable and less prone to differing interpretations?

- A. How can the mandate that localities adopt urban development areas in the comprehensive plans be enforced? Should localities be required to adopt urban development areas, but not as a part of the comprehensive plan?
- B. What is necessary legislatively to promote urban development areas as areas for redevelopment in cities?
- C. Should the law be different for zoning and subdividing land in urban development areas?
- D. Should there be a deadline by which municipalities must adopt an urban development area?
- E. What is necessary legislatively to better promote the direction of state and local transportation dollars for housing, economic development, and transportation to urban development areas?
- F. Can the minimum density requirement for urban development areas be averaged out throughout the urban development area?

Work Group # 3 discussed, in detail, (1) whether the law should provide a means by which an individual can seek enforcement of the urban development statute other than a mandamus action (2) whether municipalities should enjoy the same deadline counties currently enjoy with respect to the adoption of urban development areas; (3) whether the minimum density requirement for urban development areas be averaged out throughout the urban development area; and (4) if state

agencies, such as the Virginia Resources Authority, could leverage its money to ensure or promote urban development areas. First, the members of Work Group # 3 did not reach a consensus as to whether the law should provide a means by which an individual can seek enforcement of the urban development statute other than a mandamus action or as to whether the minimum density requirement for urban development areas can/should be averaged out throughout the urban development area. Second, the members of Work Group # 3 recommended legislation that would confer upon municipalities the same deadline enjoyed by counties with respect to the adoption of urban development areas. Lastly, Work Group # 3 decided to further discuss the whether state agencies could and should leverage its money to ensure or promote urban development areas.

Michael L. Toalson
Executive Vice-President
Home Builders Association of Virginia

Mr. Toalson delivered a presentation to the joint subcommittee on behalf of the Home Builders Association of Virginia. He first began his presentation by quantifying the housing economy (e.g., "new homeowner spends an additional 15% of the home's value on furnishings and other items for the home"). Next, Mr. Toalson explained how old land use planning promoted urban sprawl and how current market factors promote development of mixed-use properties. After discussing state constitutional guarantees relating to property, Mr. Toalson stated that, despite the movement to new urbanism, consumers should still retain choice in housing types. He then noted the means authorized under the Code of Virginia by which Virginia localities can conduct land use planning (e.g., the collection of impact fees and proffers, the creation of urban development areas). Finally, Mr. Toalson shared the reaction of the Home Builders Association of Virginia to the legislative prescription of urban development areas, suggested amendments to section 15.2-2223.1, and listed principles relating to conditional zoning (proffers) that the Home Builders Association of Virginia believe should guide infrastructure financing.

Peter M. Stephenson
Town Manager
Town of Smithfield

Mr. Stephenson delivered a presentation to the joint subcommittee. He first explained the goals of House Bill 3202 (2007), as they relate to land use planning. The presentation centered on a discussion of conditional zoning and impact fees. First, Mr. Stephenson explained, quantitatively, how cash proffers help furnish capital improvements undertaken by localities. He, however, stated that a properly enacted impact fee system, which would not include artificial limits on the fee amounts, could promote more intense development near urban centers with a lower or no impact fee in the area encompassing such development, as opposed to a higher fee outside of such area. Mr. Stephenson also highlighted the use of cash proffers by localities that do not collect them, e.g., an incorporated town that collects cash proffers using such cash, in conjunction with the surrounding county that does not collect cash proffers, to build a school for students residing in or near the incorporated town.

SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
C. NOVEMBER 12 2008

On November 12, 2008, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its third meeting at 9:30 am in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring "the transition to channeling development into Urban Development Areas, and" determining "if additional legislation is needed to help localities as they transition to Urban Development Areas." Moreover, the aforementioned resolutions require the joint subcommittee to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate." The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Legislative members of the joint subcommittee in attendance were Chairman Athey, Vice-Chairman Vogel, Delegates Oder and Miller and Senator Lucas. Members who serve ex officio in attendance were Pierce Homer, Secretary of Transportation, and Alex Daniel, Assistant Secretary of Commerce and Trade and designee for the Secretary of Commerce.

Mr. William Lecos
Member (Mason District)
Tysons Land Use Task Force

Mr. Lecos delivered a presentation to the joint subcommittee entitled "Planning and Urban Design for Tysons Corner." He began by stating that the Tysons Land Use Task Force's mission is to transform Tysons Corner "from suburbia to a truly urban place" that is "built for people, not for cars." The goals of the task force are to make Tysons Corner a top downtown, nationally, where people want to reside and is known by green stewardship. To achieve that goal, Mr. Lecos testified that the task force focused growth on transit, on creating more jobs and residents in Tysons Corner, and on making Tysons Corner more environmentally friendly. Those factors driving the goals of the task force, according to Mr. Lecos, include: (1) the creation of a "people-focused urban setting" so that residential development is encouraged in nearly all of Tysons Corner; (2) a redesign of the transportation network so that modes of traveling (walking, biking, transit, cars) are balanced, 95% of development is within a short walk of transit, and urban streets exist within Tysons Corner; (3) a "strong emphasis on the environment" so that streams are restored, parks meet urban park standards, and the architecture and buildings are environmentally friendly; and (4) new authority for implementation of the task force's work. In sum, Mr. Lecos stated that the vision of the Tysons Land Use Task Force is that Tysons Corner is an environmentally-sustainable (as measured by its parks, restored streams, and "green" buildings), urban center of 200,000 jobs and 70,000 residents that contains a "variety of affordable and workforce housing choices" because twenty percent of the buildings contain residential units.

Dr. Sheryl Bailey
Executive Director
Virginia Resources Authority

Dr. Bailey delivered a presentation to the joint subcommittee entitled "Innovative Financing to Build Virginia Communities." After delivering an overview of the Virginia Resources Authority (VRA), Dr. Bailey discussed specifically how VRA's investments and financial support have made a difference in Virginia, such as funding more than 800 projects across the commonwealth since the inception of VRA. She next detailed the financing options VRA is able to provide localities in the commonwealth. Namely, Dr. Bailey stated that financing is available anytime and that localities can utilize revolving loan funds, participate in the Virginia Pooled Financing Program, or seek VRA equipment and term financing to undertake projects. Relating to urban development areas, Dr. Bailey stated that existing VRA tools can augment development by either establishing a VRA revolving loan fund for local infrastructure or combining initial capital investment with existing VRA Pooled Financing Program to maximize impact; however, the General Assembly must define loan eligibility criteria, but localities can "capitalize on VRA's proven record of getting investment to communities quickly."

Mr. Nick Donohue
Assistant Secretary of Transportation
Office of the Secretary of Transportation

Mr. Donohue delivered a presentation relating to new secondary street acceptance requirements. He stated that the requirements, which "will supersede and replace existing subdivision street requirements," are "a result of legislation introduced at the request of Governor Kaine and unanimously approved during the 2007 General Assembly Session." The intent of such requirements is to "ensure streets accepted into [the] state system for perpetual public maintenance provide public benefit." Mr. Donohue highlighted the connectivity requirements contained within the secondary street acceptance requirements, but noted that connectivity is not always feasible and that exceptions for land use incompatibility and automatic reductions for perimeter constraints (e.g., mountains, rivers) exist. He, however, noted the grandfathering provisions of the new secondary street acceptance requirements, namely that (1) "streets within a proffered plan of development, site plan/subdivision plat, preliminary subdivision plat or approved street construction plan may be accepted under former requirements," (2) "proposals officially accepted for review by a local government may be accepted under the former requirements at the request of the locality," and (3) the new requirements allow "previous area type requirements to apply when area type is modified after approval of development proposal." Also, Mr. Donohue stated that pedestrian accommodations required in the secondary street acceptance requirements are generally based on density and specifically stated what types of accommodations, if any, are required depending on the lot size. With respect to stormwater runoff, Mr. Donohue remarked that the "Virginia Department of Transportation has worked with the Department of Conservation and Recreation and the private sector to develop [a] list of innovative stormwater facilities that can be placed within Virginia Department of Transportation rights of way" because such placement is not currently permitted. Finally, Mr. Donohue stated that implementation of the new requirements includes the production by the Virginia Department of Transportation of "a guidance document to accompany regulation to assist local staff and developers" and the provision by the Virginia Department of Transportation of "outreach and training similar to the outreach and training that was provided for the traffic impact analysis regulations."

Mr. Alan Pollock
Water Quality Program Manager
Virginia Department of Environmental Quality

Mr. Pollock delivered a presentation to the joint subcommittee entitled "Progress Report on Nutrient Trading in the Chesapeake Bay Watershed of Virginia." After discussing the Chesapeake 2000 Agreement and tributary strategies, Mr. Pollock discussed the nutrient credit exchange legislation that was adopted in 2005. The legislation (1) "authorizes [the] Chesapeake Bay Watershed Nutrient Credit Exchange Program;" (2) "directs [the Department of Environmental Quality] to issue a watershed general permit for point source discharges of nutrients (nitrogen and phosphorus) to the Chesapeake Bay and its tributaries; and (3) authorizes the creation of the (non-profit) Virginia Nutrient Credit Exchange Association to assist the regulated community in complying with the watershed general permit. The purpose of utilizing a watershed general permit and market-based point source nutrient credit trading program is (a) to meet "the nutrient cap load allocations cost-effectively and as soon as possible in keeping with the 2010 timeline and objectives of the Chesapeake 2000 agreement;" (b) to accommodate "continued growth and economic development in the Chesapeake Bay watershed;" and (c) to provide "a foundation for establishing market-based incentives to help achieve the Chesapeake Bay Program's nonpoint source reduction goals." Mr. Pollock later discussed highlights of the Chesapeake Bay Watershed Nutrient General Permit, such as its January 1, 2007 being its effective date, it covering 124 significant and 23 non-significant discharges, and it having a compliance date of January 1, 2001. Furthermore, Mr. Pollack stated that a wastewater treatment facility can grow under nutrient caps by a locality acquire non-point source offsets, purchasing additional point source allocations from other plants, and upgrading to more advanced treatment. Finally, in relating point source nutrient load caps to urban development areas, Mr. Pollock noted that "nutrient loads discharged from treatment plants are capped [but] growth is not," and "lots of creative possibilities [are] provided through Nutrient Credit Exchange Program."

Mr. Jack Frye
Director, Division of Soil and Water Conservation
Virginia Department of Conservation and Recreation

Mr. Frye delivered a presentation to the joint subcommittee entitled "Stormwater Management Requirements and Urban Development Areas." He began his presentation by discussing the statutory requirements for urban development areas and stormwater management. Next, Mr. Frye shared with subcommittee members the timeline in which proposed stormwater management regulations become effective and also shared the changes reflected in the proposed regulations. Namely, Mr. Frye testified that the changes "incorporate better site design and LID techniques into site design process" and "allow for regional approaches, pro-rata fees, exceptions, etc." According to Mr. Frye, key areas of compatibility exist between the statutory requirements for urban development area (e.g., "satisfaction requirements for stormwater management...and reduction of subdivision street widths..." and the proposed stormwater management regulatory requirements (e.g., reduction of impervious cover, such as narrower streets, reducing best management practice requirements). Finally, Mr. Frye analyzed the impacts of proposed regulations on higher density development and concluded that "initial evidence from studies indicates addressing stormwater requirements can be compatible with higher density development" and "stormwater requirements will address all development--of all

densities and intensities to varying degrees, both within and outside of urban development areas."

Text found with quotations is attributable to the presenter of the respective presentation and such presentation can be found online at <http://dls.state.va.us/GROUPS/dlut/MEETINGS/111208/materials.htm>.

The next meeting of the joint subcommittee is scheduled for the late afternoon on January 13, 2009.

SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
D. JANUARY 13, 2009

On January 13, 2009, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its fourth meeting at 2:00 p.m. in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring "the transition to channeling development into Urban Development Areas, and" determining "if additional legislation is needed to help localities as they transition to Urban Development Areas." Moreover, the aforementioned resolutions require the joint subcommittee to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate." The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Ms. Bonnie France
Partner
McGuire Woods

Ms. France delivered a presentation to the joint subcommittee entitled "Community Development Authorities." To begin, Ms. France spoke about the legislative history of the statutes authorizing community development authorities in Virginia and other special tax/assessment district financing in other states. Ms. France then discussed the statutorily-prescribed characteristics, purposes, powers, and benefits of community development authorities. She likewise explained, in detail, the statutory procedures by which community development authorities are created. In addition, Ms. France discussed the facilities undertaken, revenue bonds issued, and special taxes levied by community development authorities. Furthermore, Ms. France listed notable services and facilities undertaken by community development authorities throughout the Commonwealth. Finally, Ms. France concluded her presentation by discussing proposed legislation before the 2009 Session of the Virginia General Assembly relating to community development authorities.

Ms. France's presentation can be found online at
<http://dls.state.va.us/GROUPS/dlut/MEETINGS/011309/CDAs.pdf>.

Dr. Sheryl Bailey
Executive Director
Virginia Resources Authority

Dr. Bailey delivered remarks to the joint subcommittee relating to the financing of community development authorities in urban development areas. Specifically, Dr. Bailey explained

that allowing VRA to assist in the financing of community development authorities could create competition between community development authorities and local governments over the financial resources provided by VRA. Further, she shared a press release regarding the Virginia Resources Authority's (VRA) planned investment of more than \$200 million in local projects statewide.

Work Group # 1

Work Group #1 delivered recommendations for the joint subcommittee when developing its work plan for 2009. Specifically, a majority of the members of Work Group # 1 decided that the joint subcommittee should continue studying whether the collection of impact fees and/or the acceptance of proffers could, simultaneously, promote dense urban population areas in urban development areas and promote large farmlands, open space lands, and forestal lands outside urban development areas. Moreover, the work group recommended that the joint subcommittee should continue studying the effect that the collection of impact fees and/or the acceptance of proffers would have, generally, on development in urban development areas. Furthermore, the work group recommended that the joint subcommittee should, in 2009, consider studying whether an infrastructure financing that includes both the acceptance of non-cash proffers and the assessment of impact fees (and excludes cash proffers) can promote the purposes of and survive in an urban development area. Finally, Work Group # 1 recommended that the joint subcommittee should, in 2009, consider studying whether community development authorities can provide adequate financing for infrastructure in and/or near urban development areas.

It should be noted that there was general agreement that the workgroup wanted to study expanding the use of development agreements to fund infrastructure.

Work Group # 2

Below is a report of the recommendations for the joint subcommittee. The questions in bold type were questions the joint subcommittee asked the workgroup to answer. Immediately beneath each question is the recommendation of the workgroup.

Recommendations of Joint Subcommittee - Workgroup #2 Tuesday, January 12, 2009 – 1 p.m.

In 2009, should the joint subcommittee continue studying the effect of statutorily expanding the duties of the Commission on Local Government to include assisting localities in their establishment of urban development areas?

There was more agreement to look to the regional Planning District Commissions because they may be better positioned to represent the various local governments than any single state agency. That said, we agreed that they would need additional resources to provide data and technical assistance to the localities.

There needs to be some “central repository” authorized to track UDAs and provide information requested by local governments such as which agencies have which resources.

In 2009, should the joint subcommittee continue studying the appropriate role of state agencies in establishing and furthering urban development areas?

A point was raised regarding the importance of retaining local government authority when issues arise that could impact growth patterns which could in turn impact the feasibility of UDAs. An example given was the legislation giving the State Health Department whole authority to permit those without local oversight. This could inadvertently prevent or delay the implementation of a centralized sewer system to service UDAs.

Again, there is a need to coordinate agencies and local governments to prevent barriers to the creation of UDAs.

In 2009, should the joint subcommittee examine whether the Virginia Employment Commission or the Weldon Cooper Center for Public Service of the University of Virginia is the more appropriate entity to make official estimates and projections of future growth?

In 2009, should the joint subcommittee examine whether localities could, statutorily, assist or provide information to the entity that makes official estimates and projections of future growth used by such localities in designating their urban development areas?

We concluded that neither the Virginia Employment Commission nor Weldon Cooper currently provide all the information needed to plan for future growth. Localities need more specialized information from their PDC to update their comprehensive plans.

Accurate data is needed in order for localities to take the next step of conducting build-out analyses and fiscal infrastructure projections- both advantages for good planning and right-sizing UDAs in times of budget shortfalls.

Mr. Chairman, our group continues to emphasize the need for cooperation and communication. We look forward to continuing to work with the Joint Subcommittee throughout the next year.

Work Group # 3

Furthermore, Work Group # 3 made recommendations for the joint subcommittee when developing its work plan for 2009. The work group first recommended that the joint subcommittee should continue exploring legislation necessary to promote urban development areas in municipalities as areas for redevelopment. Work Group # 3 also decided that the joint subcommittee should consider studying the replacement of the nomenclature "urban development area" with a term more acceptable to rural localities that fear a statutorily-mandated loss of their rural characteristics. Further, Work Group # 3 recommended the joint subcommittee consider studying the effect of a statute requiring localities that have adopted zoning to incorporate language relating to urban development areas into their zoning ordinances, if such

localities are otherwise required to incorporate urban development areas into their comprehensive plans. It also recommended the joint subcommittee consider studying the effect of a statute prescribing inclusion of the following principles into comprehensive plans: (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) satisfaction of requirements for stormwater management, (vi) mixed-use neighborhoods, including mixed housing types, (vii) reduction of front and side yard building setbacks, and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections. Work Group # 3 recommended that the joint subcommittee consider studying the role that the Commission on Local Government or the Virginia Department of Housing and Community Development, either or both, should have with respect to localities establishing urban development areas, provided that a discussion of funding of such state agencies is included in such study. Finally, it decided the joint subcommittee should consider studying the density requirement established in the statute mandating urban development areas in comprehensive plans.

The joint subcommittee entertained public comment and discussed and adopted a work plan for its remaining four meetings in 2009. In formulating its work plan, the joint subcommittee accepted the work group's recommendations.

The joint subcommittee has not scheduled its next meeting.

SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
E. JUNE 18, 2009

The joint subcommittee held its second meeting of 2009 at the General Assembly Building in Richmond. Legislative members in attendance were Chairman Athey, Vice-Chairman Vogel, Delegates Orrock, Oder, Miller, and Toscano and Senators Lucas and Herring. Members who serve ex officio in attendance were Pierce Homer, Secretary of Transportation, and Alex Daniel, Assistant Secretary of Commerce and Trade and designee for the Secretary of Commerce.

Prior to the full subcommittee meeting, the workgroups met at the General Assembly Building. Workgroup # 1 discussed the proposed draft legislation relating to conditional zoning and impact fees while Workgroups # 2 and 3 met together to discuss the proposed draft legislation relating to urban development areas. (The draft legislation can be accessed at

Delegate Athey opened the meeting by stating that the purpose of this meeting was to hear concerns with the proposed draft legislation and recommendations on how to improve the legislation. A representative from each workgroup presented what was discussed in the earlier workgroup meetings to the full subcommittee and a comment period was open to the public.

Eric Lawrence
Director, Department of Planning and Development
Frederick County

Mr. Lawrence talked to the subcommittee about the urban development area Frederick County has had for about 20 years and how the proposed legislation would affect the county. The urban development area in the county is 15,000 acres and provides for 10-20 years of growth. The area provides for a density of four residential units per acre. To meet the proposed legislation, Frederick County would have to shrink its urban development area by 5,000 acres.

Mary Ann Curtin
Director, Intergovernmental Relations
Chesterfield County

Ms. Curtin provided the report of Workgroup # 1, the group charged with discussing the legislation relating to conditional zoning and impact fees. The general consensus of the members of Workgroup # 1 was that the proposed legislation does not accomplish the intended goal and needs to be completely reworked. According to some members of the workgroup, new legislation needs to reflect the true cost of growth, while others, including Mike Toalson, representing the Home Builders Association of Virginia, argued that one industry should not be responsible for carrying the cost of all growth. Likewise, Philip F. Abraham, representing the Virginia Association for Commercial Real Estate, emphasized that the commercial real estate industry should not be burdened with paying for services such as schools. The members of the workgroup strongly indicated their willingness to continue working together, and Jeryl Phillips, President of the American Planning Association's Virginia Chapter, conveyed her group's interest in assisting the subcommittee in any way possible.

Lisa Guthrie
Executive Director,
VA League of Conservation Voters

Ms. Guthrie provided a detailed report of the work done by Workgroups # 2 and 3. These workgroups went through the proposed legislation line by line to propose changes. The first concern of the workgroups was that, for consistency sake, only the term "urban development area," or another agreed upon term, should be used rather than what is currently proposed in lines 13 and 14 of the draft legislation relating to urban development areas and presented at the meeting. Secondly, workgroup members voiced concern that the population numbers of towns were being double-counted and agreed that towns and the counties in which the towns are located need to work together in projecting growth. Workgroup members proposed removing the term "new urbanism" on line 63, altogether, and having subdivision B 4 of § 15.2-2223.1 of the draft legislation state that, "4. Each urban development area shall, to the extent the locality deems practicable, include (i) pedestrian-friendly road design . . . and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections."

Ms. Guthrie reported that the workgroup members agreed that the language used in lines 25-45 of the proposed legislation is too prescriptive and should instead be written as performance standards. Ms. Phillips stated that members of her Association are ready and willing to provide assistance with the language and any standards that may be proposed. A number of speakers from the public stated that density should be used as classification rather than population. However, it was agreed that if populations continue to be used, localities with larger populations e.g., localities having a population of 250,000 or more, need to be addressed in the legislation.

Another concern voiced by members of the workgroups was the notion that the proposed legislation limited localities to 20 years when projecting future growth in urban development areas. Both M. Barrett Hardiman, also representing the Home Builders Association of Virginia, and Ted McCormack, Virginia Association of Counties Director of Governmental Affairs, voiced this concern to the full subcommittee and both stated that 20-year time period was not sufficient. According to them, this limitation does not take into account a variety of factors, including the new transfer of development rights legislation.

Next Meeting

The next meeting of the joint subcommittee is scheduled for December 4, 2009. The workgroups will meet on July 30, 2009, prior to the next joint meeting.

SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
F. DECEMBER 4, 2009

The joint subcommittee held its third meeting of 2009 at the General Assembly Building in Richmond. Legislative members in attendance were Chairman Athey, Vice-Chairman Vogel, Delegates Oder, Miller, and Toscano and Senators Lucas and Herring. Members who serve ex officio in attendance were Nick Donahue, Assistant Secretary of Transportation and designee for the Secretary of Transportation, and Alleyn Harned, Assistant Secretary of Commerce and Trade and designee for the Secretary of Commerce.

James "Jim" B. Duncan, FAICP, *President*, Duncan Associates

Mr. Duncan began his presentation on impact fees by first describing the evolution of impact fees in America. He characterized the 1970s as an era of frustration because of rapid urbanization, 1980s as an era of acceleration because of declining state and federal assistance, the 1990s as an era of maturation because of increased state enabling legislation and use of "smart-growth"-oriented impact fees, and the 2000s as the second era of frustration because of the volatile real estate markets and skyrocketing infrastructure costs and fees. Next, Mr. Duncan then detailed the elements, in his opinion, of the perfect legislation authorizing impact fees. Under the label of "rational nexus," Mr. Duncan stated that the impact fees must be used for a need found in plans and projections, must benefit the capital improvement program or impact fee service area, and must be imposed fairly. However, Mr. Duncan noted several procedural and substantive issues that affect the drafting of the perfect impact fee legislation. Substantive issues, on the one hand, include the earmarking of impact fees, setting the amount of an impact fee, defining facilities as eligible to be funded by impact fees. On the other hand, procedural issues include collection and refunding impact fees, waivers and exemptions from assessment of the impact fees, and the timing of imposition of impact fees.

Arthur C. "Chris" Nelson, Ph.D., FAICP, *Presidential Professor*,
University of Utah College of Architecture & Planning

Professor Nelson's presentation to the joint subcommittee was an overview of impact fees. He first noted safeguards that must accompany the use of impact fees, including, (1) the spending of impact fees "within reasonable proximity" and "within a reasonable period of time;" and (2) the using of impact fees for facilities being impacted. He then discussed the use of impact fees. Namely, Dr. Nelson stated that impact fees, when best used, (a) are "dedicated to expanding infrastructure capacity;" (b) cannot be used for operations or maintenance; (c) "accommodate new development without raising property, sales, transfer, or other taxes," (d) "often leverage federal and state grant funds" and (e) facilitate economic development" (e.g., "water, sewer, drainage, roads [are] needed to facilitate growth" and "schools, parks, libraries, and public safety facilities [are] needed to attract and retain competitive labor force"). Then, Dr. Nelson provided an example of how impact fees are to be determined using basic calculations (e.g., defining the level of service and subtracting from the total cost any nonlocal money, dedicated local funds, other funds, and in-kind contributions). In addition, Professor Nelson explained that local impact fees may be imposed to promote infill and redevelopment, economic development, and

workforce housing. Examples of such promotions include New Mexico "enabl[ing] waiver of impact fees for affordable housing;" and "Atlanta waiv[ing] impact fees for economic development in enterprise zones."

Carson Bise, AICP, *President*, TischlerBise

Mr. Bise delivered the third presentation to the joint subcommittee. He first discussed the current funding options for local capital improvements in Virginia, which include state and federal contributions, local general fund funding, the acceptance of cash proffers, the collection of road impact fees, and funding associated with establishing service districts and community development authorities. Mr. Bise then gave an overview of cash proffers. One, he stated cash proffers are a form of conditional zoning, i.e., a "one-time, voluntary monetary commitment by property owner/developer at [the] time of rezoning." Two, the cash "proffer passes with the ownership of the property," but the "development impacts being mitigated may or may not be directly related to the development at issue." Then, Mr. Bise discussed his perceived "challenges of current road impact fee authority." According to Mr. Bise, road impact fee authority is being threatened by the dwindling of state transportation funds, onerous Code provisions, noninvolvement by localities in reversing declining levels of service, etc. Moreover, Mr. Bise noted that elected officials like the flexibility of the proffer system because they can better (i) negotiate "bricks and mortar" improvements, (ii) collect for nonresidential development, and (iii) feel that their jurisdiction has been successful accepting proffers. He further noted that "cash proffer amounts per unit are high and keep increasing." Mr. Bise concluded that the collection of impact fees and the collection of cash proffers can be done in a single locality and even highlighted Stafford County as a locality doing both; however, he suggested that impact fees could be charged for certain components and cash proffers could be accepted for other components.

Next Meeting

The next meeting of the joint subcommittee is scheduled for January 12, 2010.

SUMMARIES OF JOINT SUBCOMMITTEE MEETINGS
G. JANUARY, 12, 2010

On January 12, 2010, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its seventh meeting at 1:00 p.m. in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring the transition to channeling development into Urban Development Areas, and determining if additional legislation is needed to help localities as they transition to Urban Development Areas. Moreover, the aforementioned resolutions require the joint subcommittee to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate. The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Five legislative proposals were presented to the joint subcommittee. Two proposals were companion resolutions that continued the joint subcommittee for an additional year. The joint subcommittee voted to endorse both resolutions as recommendations of the joint subcommittee. A third proposal was a draft bill that created the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of road, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. The joint subcommittee voted to endorse the draft bill as a recommendation of the joint subcommittee. The other two proposals revised the statute governing urban development areas. No motion was made with respect to these two proposals revising the statute governing urban development areas.

The joint subcommittee heard public comment on the legislative proposals.

VII. LEGISLATIVE RECOMMENDATIONS

HOUSE BILL NO. 2322

House Amendments in [] - February 9, 2009

A BILL to amend and reenact the tenth enactment of Chapter 896 of the Acts of Assembly of 2007, relating to urban development areas.

Patron Prior to Engrossment—Delegate Athey

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That the tenth enactment of Chapter 896 of the Acts of Assembly of 2007 is amended and reenacted as follows:

10. That counties [] shall have until July 1, 2011, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1 of the Code of Virginia pursuant to this act. [*That cities and towns shall have until July 1, 2012, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1 of the Code of Virginia pursuant to this act.*]

ENGROSSED

HB2322E

HB 2322 Urban development areas; counties shall have until July 1, 2011, to amend comprehensive plans.

An Act to amend and reenact the tenth enactment of Chapter 896 of the Acts of Assembly of 2007, relating to urban development areas.

Summary as passed House:

Urban development areas. Provides that cities and towns shall have until July 1, 2012, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1. Currently, counties have until July 1, 2011, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1.

Patrons: Athey and Rust

02/28/09 House: Bill text as passed House and Senate (HB2322ER)

02/28/09 House: Signed by Speaker

02/28/09 Senate: Signed by President

03/27/09 Governor: Approved by Governor-Chapter 469 (effective 7/1/09)

03/27/09 Governor: Acts of Assembly Chapter text (CHAP0469)

HB 1013 Virginia Infrastructure in Urban Development Areas Loan Fund; created.

A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund.

Summary as passed House:

Virginia Infrastructure in Urban Development Areas Loan Fund. Creates the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of transportation improvement projects, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Priority for loans would be given to projects that will serve two or more local governments to encourage regional cooperation.

Patrons: Athey and Morefield

01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10102972D
01/13/10 House: Referred to Committee on Counties, Cities and Towns
01/21/10 House: Assigned CC & T sub: #2
01/29/10 House: Impact statement from DPB (HB1013)
02/04/10 House: Subcommittee recommends reporting (10-Y 0-N)
02/08/10 House: Reported from Counties, Cities and Towns with substitute (19-Y 0-N)
02/08/10 House: Committee substitute printed 10104903D-H1
02/10/10 House: Read first time
02/11/10 House: Read second time
02/11/10 House: Committee substitute agreed to 10104903D-H1
02/11/10 House: Engrossed by House - committee substitute HB1013H1
02/12/10 House: Read third time and passed House BLOCK VOTE (96-Y 0-N)
02/12/10 House: VOTE: BLOCK VOTE PASSAGE (96-Y 0-N)
02/15/10 Senate: Constitutional reading dispensed
02/15/10 Senate: Referred to Committee on Local Government
02/16/10 House: Impact statement from DPB (HB1013H1)
02/23/10 Senate: Continued to 2011 in Local Government (15-Y 0-N)

HOUSE BILL NO. 1013

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund.

Patrons—Athey and Morefield

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 Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, as follows:

CHAPTER 24.3.

VIRGINIA INFRASTRUCTURE IN URBAN DEVELOPMENT AREAS LOAN FUND.

§ 15.2-2430. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Fund" means the Virginia Infrastructure in Urban Development Areas Loan Fund.

"Local government" means any county, city, or town that has, pursuant to § 15.2-2223.1, amended its comprehensive plan to incorporate one or more urban development areas.

"Project" means (i) the design and construction of roads located or to be located within an urban development area in the Commonwealth and (ii) any small water facility project as defined in § 62.1-229 and any wastewater treatment facility located or to be located within an urban development area in the Commonwealth, all or part of which facility serves the citizens of the Commonwealth. The term includes, without limitation, sewage and wastewater (including surface and ground water) collection, treatment and disposal facilities; drainage facilities and projects; related office, administrative, storage, maintenance and laboratory facilities; and interests in land related thereto.

"Urban development area" shall have the same meaning as provided in § 15.2-2223.1.

§ 15.2-2431. Creation and management of Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Infrastructure in Urban Development Areas Loan Fund, consisting of such sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter. The Authority shall establish guidelines regarding the distribution of loans or grants from the Fund, prioritization of such loans and grants, and shall establish interest rates and repayment terms of such loans as provided in this chapter. The Authority may disperse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund.

§ 15.2-2432. Deposit of money; expenditures; investments.

All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All

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HB1013

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deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits. Money in the Fund shall not be comingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth.

§ 15.2-2433. Annual audit.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor.

§ 15.2-2434. Collection of money due Fund.

The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan to a local government, including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

§ 15.2-2435. Loans to local governments.

Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments to finance or refinance the cost of any project. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of indebtedness to be refinanced plus reasonable financing expenses.

The Authority shall determine the terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem necessary or convenient. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future increases in rents, rates, fees, or charges;

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority; and

5. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or to take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal and

premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit, and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government subject to the guidelines adopted by the Board.

§ 15.2-2436. Prioritization of loans.

In approving loans, the Authority shall give preference to loans for projects that will serve two or more local governments to encourage regional cooperation.

§ 15.2-2437. Pledge of loans to secure bonds of Authority.

The Authority is empowered at any time and from time to time to transfer from the Fund to banks or trust companies designated by the Authority any or all assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds (as defined in § 62.1-199) of the Authority. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth above and any payments of principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth above that are no longer required to be held in trust pursuant to the terms of the pledge.

§ 15.2-2438. Sale of loans.

The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

§ 15.2-2439. Powers of the Authority.

The Authority is authorized to do any act necessary or convenient to the exercise of the powers granted in this chapter or reasonably implied thereby.

§ 15.2-2440. Liberal construction of chapter.

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter shall be controlling.

SB 418 Infrastructure in Urban Development Areas Loan Fund; created.

A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund.

Summary as introduced:

Virginia Infrastructure in Urban Development Areas Loan Fund. Creates the Virginia Infrastructure in Urban Development Areas Loan Fund. The Fund would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of road, small water facility, and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Priority for loans would be given to projects that will serve two or more local governments to encourage regional cooperation.

Patron: Vogel

01/13/10 Senate: Prefiled and ordered printed; offered 01/13/10 10103956D

01/13/10 Senate: Referred to Committee on Local Government

01/29/10 Senate: Impact statement from DPB (SB418)

02/09/10 Senate: Committee substitute printed 10105190D-S1

02/09/10 Senate: Continued to 2011 in Local Government (15-Y 0-N)

SENATE BILL NO. 418

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL* to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund.

Patron—Vogel

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, as follows:

CHAPTER 24.3.

VIRGINIA INFRASTRUCTURE IN URBAN DEVELOPMENT AREAS LOAN FUND.

§ 15.2-2430. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Fund" means the Virginia Infrastructure in Urban Development Areas Loan Fund.

"Local government" means any county, city, or town that has, pursuant to § 15.2-2223.1, amended its comprehensive plan to incorporate one or more urban development areas.

"Project" means (i) the design and construction of roads located or to be located within an urban development area in the Commonwealth and (ii) any small water facility project as defined in § 62.1-229 and any wastewater treatment facility located or to be located within an urban development area in the Commonwealth, all or part of which facility serves the citizens of the Commonwealth. The term includes, without limitation, sewage and wastewater (including surface and ground water) collection, treatment and disposal facilities; drainage facilities and projects; related office, administrative, storage, maintenance and laboratory facilities; and interests in land related thereto.

"Urban development area" shall have the same meaning as provided in § 15.2-2223.1.

§ 15.2-2431. Creation and management of Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Infrastructure in Urban Development Areas Loan Fund, consisting of such sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter. The Authority shall establish guidelines regarding the distribution of loans or grants from the Fund, prioritization of such loans and grants, and shall establish interest rates and repayment terms of such loans as provided in this chapter. The Authority may disperse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund.

§ 15.2-2432. Deposit of money; expenditures; investments.

All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All

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SB 418

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deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits. Money in the Fund shall not be comingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth. § 15.2-2433. Annual audit.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor.

§ 15.2-2434. Collection of money due Fund.

The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan to a local government, including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

§ 15.2-2435. Loans to local governments.

Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments to finance or refinance the cost of any project. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of indebtedness to be refinanced plus reasonable financing expenses.

The Authority shall determine the terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem necessary or convenient. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future increases in rents, rates, fees, or charges;

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority; and

5. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or to take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and to provide for the

remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit, and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government subject to the guidelines adopted by the Board.

§ 15.2-2436. Prioritization of loans.

In approving loans, the Authority shall give preference to loans for projects that will serve two or more local governments to encourage regional cooperation.

§ 15.2-2437. Pledge of loans to secure bonds of Authority.

The Authority is empowered at any time and from time to time to transfer from the Fund to banks or trust companies designated by the Authority any or all assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds (as defined in § 62.1-199) of the Authority. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth above and any payments of principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth above that are no longer required to be held in trust pursuant to the terms of the pledge.

§ 15.2-2438. Sale of loans.

The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

§ 15.2-2439. Powers of the Authority.

The Authority is authorized to do any act necessary or convenient to the exercise of the powers granted in this chapter or reasonably implied thereby.

§ 15.2-2440. Liberal construction of chapter.

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter shall be controlling.

HJ 135 Development and Land Use Tools in State's Localities, Joint Subcommittee Studying; continued.

Continuing the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities. Report.

Summary as introduced:

Study; Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities; report. Continues the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities for one year to 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. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Patron: Athey

01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10101739D

01/13/10 House: Referred to Committee on Rules

01/18/10 House: Assigned Rules sub: #3 Studies

01/26/10 House: Reported from Rules (15-Y 0-N)

01/29/10 House: Taken up

01/29/10 House: Engrossed by House

01/29/10 House: Agreed to by House BLOCK VOTE (89-Y 0-N)

01/29/10 House: VOTE: BLOCK VOTE PASSAGE (89-Y 0-N)

02/01/10 Senate: Reading waived

02/01/10 Senate: Referred to Committee on Rules

02/19/10 Senate: Assigned Rules sub: #1

02/26/10 Senate: Reported from Rules

03/01/10 Senate: Reading waived (40-Y 0-N)

03/02/10 Senate: Read third time

03/02/10 Senate: Agreed to by Senate by voice vote

03/05/10 House: Bill text as passed House and Senate (HJ135ER)

HOUSE JOINT RESOLUTION NO. 135

Offered January 13, 2010

Prefiled January 13, 2010

Continuing the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities. Report.

Patrons—Athey and Morefield

Referred to Committee on Rules

WHEREAS, House Joint Resolution No. 178 (2008) and Senate Joint Resolution No. 70 (2008) established the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities; and

WHEREAS, since passage of House Joint Resolution No. 178 (2008) and Senate Joint Resolution No. 70 (2008), the joint subcommittee held a total of seven meetings at which it heard testimony from expert urban planners, state and local government officials, and representatives of associations interested in the mission of the joint subcommittee; and

WHEREAS, the joint subcommittee, in taking a comprehensive look at the various land use planning tools and infrastructure financing options, both new and old, as suggested by the House Joint Resolution No. 178 (2008) and Senate Joint Resolution No. 70 (2008), examined Virginia law governing impact fees, proffers, urban development areas, and community development authorities; and

WHEREAS, the joint subcommittee, in furtherance of the mandates in House Joint Resolution No. 178 (2008) and Senate Joint Resolution No. 70 (2008) to "make any recommendations deemed appropriate," established work groups charged with recommending legislation to the joint subcommittee; and

WHEREAS, the 2009 Session of the General Assembly passed House Bill 2322 (2009), which provided that cities and towns shall have until July 1, 2012, to amend their comprehensive plans in accordance with the provisions of § [15.2-2223.1](#) of the Code of Virginia, and thus implicated the mandates in House Joint Resolution No. 178 (2008) and Senate Joint Resolution No. 70 (2008) that the joint subcommittee "monitor the transition of most new development to Urban Development Areas"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities be continued. The joint subcommittee shall have a total membership of 10 members that shall consist of five members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate appointed by the Senate Committee on Rules; and the Secretary of Commerce and Trade and the Secretary of Transportation or their designees to serve ex officio with voting privileges. The current members appointed by the Speaker of the House of Delegates shall be subject to reappointment. The current members appointed by the Senate Committee on Rules shall continue to serve until replaced. Vacancies shall be filled by the original appointing authority. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall continue to 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. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Administrative staff support shall continue to be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall continue to be provided by the Division of Legislative Services. Technical assistance shall continue

to be provided by the Department of Transportation and the Department of Housing and Community Development. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2010 interim, and the direct costs of this study shall not exceed \$8,000 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2010, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2011 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2010 interim.

SJ 89 Development and Land Use Tools in State's Localities, Joint Subcommittee Studying; continued.

Continuing the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities. Report.

Summary as introduced:

Study; Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities; report. Continues the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities for one year to 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. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Patron: Vogel

01/13/10 Senate: Prefiled and ordered printed; offered 01/13/10 10101740D

01/13/10 Senate: Referred to Committee on Rules

01/18/10 Senate: Assigned Rules sub: #1

02/12/10 Senate: Reported from Rules

02/15/10 Senate: Reading waived (40-Y 0-N)

02/16/10 Senate: Read second time and engrossed

02/16/10 Senate: Reading waived (40-Y 0-N)

02/16/10 Senate: Agreed to by Senate by voice vote

02/18/10 House: Placed on Calendar

02/18/10 House: Read first time

02/18/10 House: Referred to Committee on Rules

03/01/10 House: Assigned Rules sub: #3 Studies

03/02/10 House: Subcommittee recommends reporting (5-Y 0-N)

03/04/10 House: Reported from Rules (15-Y 0-N)

03/09/10 House: Taken up

03/09/10 House: Agreed to by House BLOCK VOTE (97-Y 0-N)

03/09/10 House: VOTE: BLOCK VOTE PASSAGE (97-Y 0-N)

03/14/10 Senate: Bill text as passed Senate and House (SJ89ER)

SENATE JOINT RESOLUTION NO. 89

Offered January 13, 2010

Prefiled January 13, 2010

Continuing the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities Report.

Patron—Vogel

Referred to Committee on Rules

WHEREAS, Senate Joint Resolution No. 70 (2008) and House Joint Resolution No. 178 (2008) established the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities; and

WHEREAS, since passage of Senate Joint Resolution No. 70 (2008) and House Joint Resolution No.178 (2008), the joint subcommittee held a total of seven meetings at which it heard testimony from expert urban planners, state and local government officials, and representatives of associations interested in the mission of the joint subcommittee; and

WHEREAS, the joint subcommittee, in taking a comprehensive look at the various land use planning tools and infrastructure financing options, both new and old, as suggested by the Senate Joint Resolution No. 70 (2008) and House Joint Resolution No. 178 (2008), examined Virginia law governing impact fees, proffers, urban development areas, and community development authorities; and

WHEREAS, the joint subcommittee, in furtherance of the mandates in Senate Joint Resolution No. 70 (2008) and House Joint Resolution No. 178 (2008) to "make any recommendations deemed appropriate," established work groups charged with recommending legislation to the joint subcommittee; and

WHEREAS, the 2009 Session of the General Assembly passed House Bill 2322 (2009), which provided that cities and towns shall have until July 1, 2012, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1 of the Code of Virginia, and thus implicated the mandates in Senate Joint Resolution No. 70 (2008) and House Joint Resolution No. 178 (2008) that the joint subcommittee "monitor the transition of most new development to Urban Development Areas"; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities be continued. The joint subcommittee shall have a total membership of 10 members that shall consist of three members of the Senate appointed by the Senate Committee on Rules; five members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and the Secretary of Commerce and Trade and the Secretary of Transportation or their designees to serve ex officio with voting privileges. The current members appointed by the Senate Committee on Rules shall continue to serve until replaced. The current members appointed by the Speaker of the House of Delegates shall be subject to reappointment. Vacancies shall be filled by the original appointing authority. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall continue to 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. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Administrative staff support shall continue to be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall continue to be provided by the Division of Legislative Services. Technical assistance shall continue to be provided by the Department of Transportation and the Department of Housing and Community Development. All

INTRODUCED

SJ89

3/22/10 10:25

agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2010 interim, and the direct costs of this study shall not exceed \$8,000 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2010, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2011 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2010 interim.

VIII. CONCLUSION

The joint subcommittee studying development and land use tools in Virginia's locality, which was established by House Joint Resolution 178 (2008) and Senate Joint Resolution 70 (2008), met three times in 2008, three times in 2009, and one time in 2010 prior to the General Assembly passing House Joint Resolution 135 (2010) and Senate Joint Resolution 89 (2010), which continued the joint subcommittee. The workgroups established by the joint subcommittee met periodically throughout the calendar years 2008 and 2009. After receiving testimony from professors, urban planners, state and local government officials, and persons representing real estate developers, the joint subcommittee made several recommendations pursuant to House Joint Resolution 178 and Senate Joint Resolution 70. Specifically, the joint subcommittee voted to recommend extending the deadline by which municipalities must designate urban development areas because, under the act adding the statute governing urban development areas, the deadline was the act's effective date (July 1, 2007). Moreover, the joint subcommittee voted to support legislation creating the Virginia Infrastructure in Urban Development Areas Loan Fund, which would be administered by the Virginia Resources Authority. Money in the Fund would be used exclusively for the financing of transportation improvement projects, and small water and wastewater treatment facility projects located or to be located within an urban development area in the Commonwealth and undertaken by a local government. Finally, the joint subcommittee voted to recommend the continuing of the joint subcommittee.

A majority of the joint subcommittee members did not vote in favor of recommending legislation amending the statute governing urban development areas. The legislation then considered by the joint subcommittee set certain densities in urban development areas according to the population of the locality that designated the urban development area. The legislation also required that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas.

