

PROVISIONS of SB 768 (House Rules Committee substitute)

1. Repeal current cash proffer authority for all localities

a. Effective January 1, 2009.

2. Amend non-cash proffers

- a. Localities, after July 1, 2009, limited to accepting 'reasonable' non-cash on-site proffers "necessitated by and attributable to" new development from "within the property subject to rezoning petition."
b. Localities may accept non-cash off-site proffers for public safety facilities not subject to capital plan for new residential development or the residential portion of a mixed use development.

3. Amend existing road impact fee authority

a. Applicability

- i. All cities
- ii. Fairfax and Arlington Counties and the towns therein
- iii. Any county that had the authority to accept proffers prior to 7/1/09
- iv. Any county (and the towns therein) that has adopted zoning and has a population growth rate of at least 5% (from the next-to-latest to the latest census) are authorized to impose impact fees on new residential and non-residential development.

b. Impact fee may only be charged for public facility improvements "necessitated by and attributable to" new development (current standard is "benefiting") at a level of service consistent with existing level.

c. Public facility improvements are defined as public road and transit construction, improvement or expansion; public safety (police, fire, EMS, and rescue) facilities; and public school facilities.

d. Non-residential development shall be exempted from public school facility impact fees. A locality may waive other impact fees for non-residential development, and may waive any impact fees in UDA's.

e. Impact fees not allowed on affordable or rental housing.

f. Impact fees may only be imposed within an impact fee service area (IFSA) that is designated by ordinance on the zoning map; locality-wide IFSA's are barred.

g. Public facility improvements program to be adopted:

- i. Requires assessment of public facility needs of an IFSA
- ii. Requires assessment of future revenues generated by the new development for needed public facilities, and any funds received from the federal, state or local governments to pay for the public facilities for which the impact fee is imposed.

h. Impact fees would apply to all residential and commercial rezonings and any by-right residential and commercial development within an impact fee service area

i. Impact fees would apply at final subdivision or final site plan approval and recordation.

j. All administrative, planning, and capital improvement assessment and funding requirements of current impact fee law would continue to apply.

k. Maximum residential fee in NOVA = \$12,500 per single family detached unit.

l. Maximum residential fee in balance of state = \$7,500 per single family detached unit (2/3 of this amount per attached unit and half this amount per multifamily unit).

m. Commercial caps for NOVA and rest of state are based on gross square footage for various uses.

n. Cap may be adjusted annually based on CPI or Marshall Swift index.

o. Credit against the impact fee must be given to the new development paying the fee for the market value of land dedications, cash contributed, and construction provided by the developer to pay the impact fee for on-site and off-site "public facilities."