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## Shifting costs from developers to taxpayers

### The state Senate passes a bill to change who pays for the impact of developments on localities.

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JAMES CITY

A bill that would overhaul how housing projects are paid for passed the state Senate Tuesday — much to the chagrin of the state's fastest-growing cities and counties.



While builders say the bill will lead to lower-priced new homes, local officials statewide say it could mean homeowners see higher property tax bills.

The legislation, Senate Bill 768, would strip away a decades-old agreement with developers to voluntarily pay local governments for the impacts their housing projects have on communities, such as the need for new schools, expanded roadways and more public utilities.

Builders have long paid localities cash payments, called proffers, to offset those impacts. Each locality sets the amount of the proffer.

The legislation would eliminate the localities' ability to set those proffers. Instead, developers would pay a standard fee of up to $7,500 per house — but only in high-growth areas, like Suffolk and James City, Gloucester and Isle of Wight counties. Places like Hampton or Newport News, which have seen more static growth and therefore fewer developments could be expected, would not be allowed to charge the impact fee at all.

Local governments in Virginia have begged for years to replace the proffer system with the simpler impact fees because proffers now are only paid on housing projects that require land to be rezoned.

While the new proposal means high-growth localities could require a standard fee for all homes and therefore more of them, officials are worried the amount of the proposed impact fee won't be big enough to make up the difference.

Without the ability to individually set their own impact fees, some local governments could lose tens of millions to pay for facilities and will have to shift the burden to residents' real estate tax, officials said.

For instance, in James City County, proffers for schools are set at about $17,000 per home. Builders offer other payments for sewers, use of libraries and parks and other community effects, but can reduce payments if a project offers affordable housing. All this can add up to $19,000 per unit, conservatively speaking. That means the builder of a 100-home project would give James City $1.9 million to pay for the growth's impact.

But under Senate Bill 768, the impact fee would mean the county would get no more than $7,500 per home, or only $750,000 for the development.

The difference between $1.9 million and $750,000 is $1.15 million. And, according to county officials, a loss of $1.1 million to $1.2 million translates into an extra penny on the property tax rate. "If you think about this in terms of average taxpayers, you'd see their average cost go up," said James City Supervisor John McGlennon. McGlennon is also chairman of the Coalition of High-Growth Communities, a group of 25 localities that range from Northern Virginia to South Hampton Roads. The coalition is fighting the bill.

"In tight economic times, the ability to fund new schools, fire stations, police stations and road improvements becomes much more questionable," he said.

The Home Builders Association of Virginia, which requested the bill, sees the change as a business imperative that will not harm localities. Builders across the state have complained about the unpredictability inherent in a system that allows each city or county to charge a different range of proffers.

Higher proffers lead to higher costs, which lead to higher home prices, they say. If there were cheaper housing along with more constancy in the development process, everyone would come out ahead, said Robert Duckett, director of public affairs for the Peninsula Housing & Builders Association. "Proffers over time, as we've seen in James City County, can change overnight, just by the whim of the Board of Supervisors," Duckett said. Just last July, James City supervisors voted to more than quadruple single-family home proffers to $17,115 to pay for the costs of the county's rapid growth.

Under the Senate bill, the impact fee cap could only be adjusted once a year based on a cost-of-living index. The $7,500 maximum would apply anywhere considered to be "high-growth," except for localities in the Northern Virginia Transportation Authority, which can charge as much as $12,500.

High-growth areas are defined as cities and counties with 20,000 or more residents that have a 5 percent population growth between 10-year censuses.

"(This bill) is extremely bad for localities," said Stan Clark, chairman of the Isle of Wight Board of Supervisors. "It's a horrible end-run by the Home Builders Association in concert with a General Assembly that apparently listens more to who pays their PACs than to who votes in the polls."

The average Isle of Wight proffer is about $11,250, Clark said. The reduction to a smaller impact fee would make the supervisors much less likely to approve new development and could easily lead to raised taxes to cover what's already in the mill, he said.

Clark also pooh-poohs the notion that home prices would go down if developers don't have to spend as much for rezonings.

"The margin of profit for home builders will be greater," Clark said. "This money is going to go in home builders' pockets."

Even mostly built-out cities like Newport News have received cash proffers for land acquisition, such as the Huntington Pointe developers' payments for schools and a fire station site. But with most of the city's infrastructure in place, there's no need for impact fees, said Al Riutort, city planning director.

It's unlikely Newport News officials would raise the tax rate, Riutort said, given recent intense pressure from citizens to lower it. So the city would just have to absorb the loss somehow in the budget, he said.

"I can't believe this bill is even being considered, and passed the Senate," Riutort said. The bill, which is not yet scheduled for discussion in the House of Delegates, was approved by the Senate 21-19. Two of the 21 supporters were Sen. Thomas K. Norment, who represents James City, and Sen. L. Louise Lucas, who serves parts of Isle of Wight and Suffolk.

On Thursday, Norment defended his vote by saying the bill was not yet completed. He admitted some counties might have trouble with the change, but he was looking at the statewide perspective.

Still, Norment, the senate Republican Minority Leader, said that he doubted House lawmakers would endorse the bill. Any reform would then result from negotiations between the two chambers, he said.

Lucas, who chairs the Local Government committee that approved the bill, did not return calls for comment.

Some smaller sticking points do remain. The bill allows for exceptions to be made for affordable housing, but doesn't define the term — worrying some local officials. And some predict problems with the Virginia Department of Transportation with the restrictions on what can be collected for road improvements.

Discussions between advocates and local governments have also been lackluster, McGlennon said.

"We have been told what the home builders are willing to consider but there haven't been real negotiations," he said. "The ground is shifting underneath us."

*Staff writer Kimball Payne contributed to this report.*