



ISSUE: VA Proffer Bill – A Win for Developers

VA House approved SB Bill 549 by 72-26 vote in 2016. The measure forbids a locality from placing “unreasonable” proffers on new developments. In other words, the bill no longer requires developers to pay their fair share of related infrastructure costs as they have for the past 40 years and instead passes the growing-pain costs on to everyone through higher taxes. A locality that can’t pass the costs on to the taxpayer simply doesn’t expand its infrastructure and doesn’t build new schools, leading to overcrowding. The needed infrastructure to support growth is not built. Developers win and citizens lose out.

- The VA Proffer “Reform” Bill (SB549) passed by Republicans in Feb 2016, favors developers over taxpayers by gutting the 40 year-old practice of collecting “proffers” from developers which are used to get builders to contribute to related needs like new schools, fire & rescue, roads, traffic lights, building projects, parks and other improvements required to support developer growth in exchange for zoning permits.
- Rather than tax the builder who benefits from the new project, the bill passes those costs on to the taxpayers who get higher taxes to support more traffic, higher road usage, news schools, community centers and transit projects to support that new growth.
- In the final version, counties with high density residential development were stricken from the bill leaving smaller communities and tax payers footing the infrastructure costs.
- Supporters of the bill, which was *heavily lobbied for by the home building industry**, say it's “an attempt to restore equity to the system”; opponents, however, understand that it simply results in higher taxes as a pass-through for residents to fund already overburdened infrastructure.
- The state proffer system first started in the mid-1970s by modestly allowing landowners to chip in for road improvements and the like when new homes appeared likely to strain city services.#
- The position taken by developer representative *Homebuilders Association of Virginia*, CEO Mike Toalson, is, “The system has evolved into a form of taxation on the industry and new homeowners.” Opponents point out, however, the move will curb “smart growth” by allowing developments to pop up without mitigating their effects. “One of the very few tools that localities have to safeguard against irresponsible development has been gutted,” Michael Town, executive director of the Virginia League of Conservation Voters.#



- Based on 2016 Federal Election Commission data in the last Virginia election cycle, **Republican/Conservative and Real Estate Developer Contributions amounted to \$31.9 Million or 31% of Top 10 Campaign Contributors**

Real Estate developers obviously have heavy sway when it comes to campaign contributions and their resultant House Representatives voting records in their favor—despite the cost to Virginia’s taxpayers:

Virginia

Summary Delegation Candidates Donors Industry Geography Presidential Other Data

Enter state or zip:
Select a State
Enter Zip Code

Top Industries, 2016 Cycle

Election cycle: 2016

Republican/Conservative	\$26,364,995
Leadership PACs	\$15,056,048
Retired	\$13,215,188
Lobbyists	\$10,368,276
Defense Aerospace	\$8,832,259
Lawyers/Law Firms	\$8,181,399
Health Professionals	\$6,164,990
Business Services	\$5,682,512
Real Estate	\$5,504,484
Automotive	\$4,781,303

"Top industries" shows the top 10 industries contributing from within the state. Totals include contributions from PACs, soft money donors, and individuals giving more than \$200 to federal candidates or political parties.

Based on Federal Election Commission data available electronically on February 01, 2017.

<https://www.opensecrets.org/states/indus.php?cycle=2016&state=VA>

Districts Affected:

All VA Districts are affected by this pro-developer legislation due to lost corporate revenue, but particularly Loudoun County (Dist. 67-LeMunyon, 32-Greason) which relies on proffer revenue more than any other county in VA (\$33M/Yr) for infrastructure.

- Dist 67 – Republican LeMunyon voted FOR this bill which passed, favoring developers over county revenue for schools even though huge amounts of dollars are needed for new schools and infrastructure for the bulging population growth.
- Dist. 32 – Republican Greason voted AGAINST – so this is *NOT an issue to call him on*. "Loudoun County is unique in that we are one of the fastest growing counties in the country," Tag Greason said in opposition to the bill. "We build 2.5 new schools every year and have 2,400 new students entering Kindergarten each year. This is a unique circumstance here in the commonwealth, and if we limit the proffer system in Loudoun County as the bill suggests, then we will be putting those costs onto the entire community."



VOTE ROLE-CALL:

SB 549 Conditional zoning; provisions applicable to certain rezoning proffers. **floor:**

02/23/16 House: VOTE: PASSAGE (72-Y 26-N 2-A)

YEAS--Adams, Aird, **Albo-42**, **Anderson-51**, Austin, Bagby, Bell, Richard P., Bell, Robert B., Bloxom, Byron, Campbell, Cline, Collins, Davis, Edmunds, Fariss, Fowler, Freitas, Garrett, Gilbert, Habeeb, Head, Helsel, Heretick, Herring, Hodges, **Hugo-40**, Ingram, James, Kilgore, Knight, Landes, LaRock, Leftwich, **LeMunyon-67**, Lindsey, **Lingamfelter-31**, Loupassi, Marshall, D.W., Mason, Massie, McClellan, McQuinn, **Miller-50**, Miyares, Morefield, Morris, O'Bannon, O'Quinn, Orrock, Peace, Pillion, Pogge, Poindexter, Price, Rasoul, Robinson, Rush, Simon, Spruill, Stolle, Sullivan, Taylor, Torian, Toscano, Tyler, Villanueva, Ward, Watts, Wilt, Wright, **Yancey-94**.

NAYS--**Bell, John J.-87**, Boysko, Bulova, Carr, Cole, Cox, Dudenhefer, Filler-Corn, **Greason-32**, Hester, Hope, Jones, Keam, Kory, Krizek, Levine, Lopez, **Marshall, R.G.-13**, Murphy, Plum, Ransone, Sickles, Ware, Webert, **Yost-12**, Mr. Speaker--26.

Sources:

http://www.loudountimes.com/news/article/va_house_advances_controversial_proffer_legislation432

<https://lis.virginia.gov/cgi-bin/legp604.exe?161+vot+HV0843+SB0549> – House Vote Role call

<https://www.restonnow.com/2016/02/10/update-bill-that-limits-developer-proffers-passes-va-senate/>

<https://bearingdrift.com/2016/02/03/big-government-is-alive-and-well-in-virginia/>

*http://www.loudountimes.com/news/article/loudoun_chair_sends_letter_to_mcauliffe_requesting_adjustments_to_proffer_bill

+http://www.hbav.com/site/publisher/files/Proffer%20Reform%20Why%20Needed%20August2016_pdf%20Doug%20Fahl%202016.pdf – NOTE WHO WROTE THIS pro-‘Proffer Reform’ bill article: John Foote, Esq. attorney with Walsh, Colucci, Lubeley and Walsh, PC, a Northern Virginia law firm, *specializing in commercial real estate development law, business law and civil litigation*.

http://pilotonline.com/news/government/virginia/a-win-for-developers-new-state-proffer-law-frustrates-chesapeake/article_3d3685d8-9b62-5341-a9a5-8a635f1cd017.html

Republicans in Districts 31, 40, 42, 50, 51, 67, 72, 73, 94, and many others all voted for developers over their own citizens.