

SUBJECT: Assessments for street improvements based on special benefits received

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 7 ayes — Hill, Conley, Bailey, Ehrhardt, Thompson, Tillery, Woolley

0 nays

1 present, not voting — Staples

1 absent — Davila

SENATE VOTE: On final passage, April 12 — 31-0

WITNESSES: None

BACKGROUND: Since 1927 city governments have been allowed to allot a portion of street improvement costs to abutting landowners. The theory behind such assessments is that the adjacent landowners receive the most benefit of the street improvement, and thus, should be assessed a portion of the cost. Over the years, this provision has been the subject of numerous court decisions defining exactly how such an assessment should be apportioned among abutting landowners. These decisions have explained and expanded on the law, but the statute's wording has remained virtually unchanged.

DIGEST: SB 1412 would amend VACS art. 1105b, sec. 4, to specify that the amount of an assessment or reassessment against an abutting property owner may not exceed the amount of special benefits resulting from the enhanced value of the property. Such special benefits could only be determined on the basis of fact. Evidence that could be considered in determining the special benefit includes:

- a description of the proposed project;
- the date the special benefits are expected to accrue;
- an analysis of the market influences on the proposed project;

- a statement of the highest and best use of the property;
- a statement concerning the type of municipal project and the project's economic relationship to the property;
- the cost, income and market data methods used; and
- other relevant evidence.

A property owner would be given notice of any proposed assessment or reassessment, and an opportunity to contest such assessment at a hearing. If proper notice were given, the failure of the owner to appear at the hearing would be deemed to be acceptance of the assessment.

Special benefit would be defined as improved or sustained access to a specific property or another characteristic that would improve or sustain a property's marketability.

The bill would take effect on September 1, 1995, and would only apply to an action for assessment or reassessment commenced after that date.

**SUPPORTERS
SAY:**

SB 1412 would merely codify judicial interpretations of the statute on assessments against property owners for street improvements. Currently, a reading of the statute directly contradicts the interpretation by the courts. There is no intention to alter the law as it is being applied, but merely to put that application clearly into the statute.

**OPPONENTS
SAY:**

No apparent opposition.