



MEMORANDUM

To: House Transportation Committee

From: David G. White

Date: March 19, 2014

Re: H 740 – Outline of Testimony

Greatly improved over previous drafts – still needs work. What follows are preliminary comments. May have more as I continue to digest this complicated legislation.

- 1) 6105 (b)(2)(C) – strongly urge Option #2 “rational nexus”
- 2) 6106 (b)(4) “also being addressed by the capital transportation project which the fee is designed to support” – too limited. As previously testified, a developer should be credited for the value of traffic improvements regardless of whether the constructed improvements are in the capital plan for the TID. That’s because the TID’s capital plan is likely to be based more on governmental budget constraints than on what ideally would be built if the government could afford it. If the developer is constructing improvements that are not in the plan but are solving problems or adding capacity in the TID they should be credited.
- 3) 6106 (c) and 6108 – timing of payment –
 - a. Payment should be prior to occupancy, or at the earliest, prior to commencement of construction.
 - b. Payment should NOT be prior to issuance of the permit. Typically a developer can’t obtain financing until *after* all permits are issued.
 - c. Arguably payment should not be due until occupancy because that’s when the traffic impacts may begin to occur.
 - d. Payment should be able to be phased based on when phases of a project are constructed or occupied.
- 4) 6107 – TID Fund – This section should specify that each TID must have its own separate fund which is discretely accounted for. As currently written this appears to set up a single fund.

- 5) 6109 – Time limits – 15 years is much too long. Recommend 6 years, consistent with statute for municipal impact fees. If there is a traffic problem that is serious enough to warrant a TID, it should be constructed ASAP.
- 6) 6110 – Question: why appeals to Civil Division rather than Environmental Division? My impression is that the Environmental Division deals with traffic more and thus has more expertise.
- 7) If project requires both Act 250 and Sec 1111, the District Commission's decision should control; VTrans can't decide to impose a fee if the Dist. Com. does not; nor impose a different fee.