

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 770

An Act to amend and reenact §§ 15.2-4603, 15.2-4608, and 15.2-4616, of the Code of Virginia, relating to transportation improvement districts; inclusion of property in multiple districts; abolition of districts.

[H 735]

Approved April 7, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4603, 15.2-4608, and 15.2-4616 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-4603. Creation of district; extension of term of district.

A. A transportation improvement district shall be created under this chapter only by the resolutions of the boards of supervisors of the adjoining counties, as defined in § 15.2-4602, upon the joint petition to each board of supervisors in which the proposed district is located of the owners of at least fifty-one percent of either the land area or the assessed value of land in each county which is within the boundaries of the proposed district and which has been zoned for commercial or industrial use or is used for such purposes. Any proposed district shall include land in each county and may include any land within a town located within such county. Such petitions should:

1. Set forth the name and describe the boundaries of the proposed district;
2. Describe the transportation facilities proposed within the district;
3. Describe a proposed plan for providing such transportation facilities within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto which the petitioners request for the proposed district;
4. Describe the benefits which can be expected from the provision of such transportation facilities within the district; and
5. Request each board to establish the proposed district for the purposes set forth in the petition.

B. Upon the filing of such a petition, each local board of supervisors shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or who own taxable real property within the boundaries of the proposed district may appear and show cause why any property or properties should not be included in the proposed district. If real property situated within a town is included in the proposed district, the board of supervisors shall deliver a copy of the petition and notice of the public hearing thereon to the town council at least thirty days prior to the public hearing, and the town council may, by resolution, determine if it wishes such property to be included within the proposed district, and shall deliver a copy of any such resolution to the board of supervisors at the public hearing required hereunder; the resolution shall be binding upon the board of supervisors with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the county. At least ten days shall intervene between the third publication and the date set for the hearing.

C. If each board of supervisors finds the creation of the proposed district would be in furtherance of the applicable county comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety and general welfare, each board of supervisors shall pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with § 15.2-4605. Each resolution shall provide a description with specific terms and conditions of all commercial and industrial zoning classifications which shall be in force in the district upon its creation, together with any related criteria, and a term of years, not to exceed twenty years, as to which each such zoning classification and each related criterion set forth therein shall not be eliminated, reduced, or restricted if a special tax is imposed as provided in § 15.2-4607. However, this commitment shall not limit the legislative prerogative of the board of supervisors in any county in which a district is wholly or partly located with respect to land use approvals of any kind arising from requests initiated by an owner of property therein, or as specifically required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) or the regulations adopted pursuant thereto, or other state law, or the requirements of the federal Clean Water Act (33 U.S.C. § 1342 (p)) and regulations promulgated thereunder by the federal Environmental Protection Agency or applicable state regulations.

Notwithstanding the foregoing provisions of this subsection, in the case of any district created under this section prior to July 1, 1992, all commercial and industrial zoning classifications, and all zoning ordinance text and regulations relating thereto, including site plan regulations, regarding allowable uses, densities, setbacks, building heights, required parking, and open space in force in the district on the date of the district's creation shall be deemed to have been a part of the ordinance creating the district, and shall remain at least as permissive without limitation, reduction, or restriction, except as provided hereinabove with respect to land use approvals of any kind or nature arising from requests initiated by landowners or as required to comply with the Chesapeake Bay Preservation Act or regulations adopted pursuant thereto, other state law or the requirements of the federal Clean Water Act (33 U.S.C. § 1342 (p)) and regulations promulgated thereunder by the federal Environmental Protection Agency or applicable state regulations, until the earlier of July 1, 2037, or for a period of fifteen years from the date the district was created so long as there remain any outstanding monetary obligations of the district or the commission incurred pursuant to the powers of the commission set forth in this chapter. Any rezonings, with respect to individual parcels of land in a district which have been duly approved by a board of supervisors prior to July 1, 1992, shall remain in effect, regardless of who initiated such rezonings. Each resolution shall also provide that the district shall expire either thirty-five years from the date upon which the resolution is passed or when the district is abolished in accordance with § 15.2-4616; however, the term of any district created under this chapter is extended for a period of fifteen years beyond any such thirty-five-year term.

After the public hearing, each board of supervisors shall deliver a true copy of its proposed resolution creating the district to the petitioning landowners or their attorney-in-fact. Any petitioning landowner may then withdraw his signature on the petition in writing at any time prior to the vote of the board of supervisors. If any signatures on the petition are withdrawn as provided herein, the board of supervisors may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A of this section with respect to minimum acreage or assessed value as the case may be. After the boards of supervisors have adopted resolutions creating the district, the district shall be established and the name of the district shall be "The Transportation Improvement District."

§ 15.2-4608. Agreements with Commonwealth Transportation Board; payment of special improvements tax to Transportation Trust Fund.

A. The district may contract with the Commonwealth Transportation Board for the Board to perform any of the purposes of the district.

The district may agree by contract to pay over all or a portion of the special improvements tax and all or a portion of the sums received pursuant to subsection C to the Commonwealth Transportation Board, *which shall hold such sums in and disburse them from a special account. The Commonwealth Transportation Board shall have the right to assign, convey, pay over, or deliver such sums to a third party in connection with the provision of services to the district pursuant to an agreement entered into under this chapter or any other applicable law.*

Prior to executing any such contract, the district shall seek the agreement of each board of supervisors creating the district that the county administrator or other officer charged with the responsibility for preparing the county's annual budget shall submit in the budget for each fiscal year in which any Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district are outstanding, all amounts to be paid to the Commonwealth Transportation Board under such contract during such fiscal year.

If the amount required to be paid to the Commonwealth Transportation Board under the contract is not paid for a period of sixty days after the amount is due, the Commonwealth Transportation Board is hereby directed, until the amount has been paid, to withhold sufficient funds from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which a project covered by such contract is located or to any county in which such project is located and to use such funds to satisfy the contractual requirements.

B. While nothing in this article shall limit the authority of any county to change the classification of any parcel of land zoned for commercial or industrial use or used for such purpose, upon the written request or approval of the owner of the property affected by such change after the effective date of any such contract, except for changes in zoning classification from commercial or industrial use to residential use approved in accordance with subsection C, should a change in zoning classification so requested result in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board pursuant to the contract, the district shall request the board of supervisors to increase the rate of such tax by such amount up to the maximum authorized rate as may be necessary to prevent such shortfall. If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at the maximum authorized rate and cannot be increased, then the amount of funds otherwise appropriated and allocated pursuant to the highway allocation formula as provided by Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1 to the highway construction district in which a project covered by such contract is located or to a county in which such project is located, shall be reduced by the amount of such deficit and used to satisfy the

deficit.

C. For any property within the district for which a county changes its zoning classification from commercial or industrial use to residential use upon the written request or approval of the owner, the county shall require the simultaneous payment from the property owner of a sum representing the present value of the future special improvements taxes estimated by the county to be lost as a result of such change in classification. On a case-by-case basis, however, the board of supervisors may, in its sole discretion, defer, for no more than sixty days, the effective date of such change in zoning classification. Upon deferral, the lump sum provided for in this subsection shall be paid to the county in immediately available funds acceptable to the county before the deferred effective date. If the landowner fails to make this lump sum payment as and when required, the change in zoning classification shall not become effective and the ordinance shall be void. Special improvements taxes previously paid in the year of the zoning change may be credited toward the payment on a prorated basis. The portion of the payment that may be credited shall be that portion of the year following the change in zoning classification. The district and the Commonwealth Transportation Board shall agree to a method of calculating the present value of the loss of future special improvements taxes resulting from such a change in zoning classification and the procedure for payment of such funds to the Commonwealth Transportation Board. Sums paid pursuant to this subsection which represent the estimated special improvements taxes which otherwise would have been imposed upon the rezoned property in any given year shall be included in calculations which may be made pursuant to §§ 15.2-4604 and 15.2-4605 in order to determine whether special tax revenues from the district have exceeded total debt service on the bonds issued pursuant to Chapter 676 of the 1988 Acts of Assembly for three consecutive years. Whenever any county acts in accordance with such an agreement between the district and the Commonwealth Transportation Board, the change in zoning classification shall not be considered to have resulted in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board.

§ 15.2-4616. Abolition of local transportation districts.

A. *Each district created under this chapter shall be subject to abolition on the later of (i) the date specified in the authorizing resolution or (ii) ninety days following the date on which all obligations of the district and the commission have been paid or fulfilled.* ~~Any~~ A district created under the provisions of this chapter ~~may~~ shall be abolished by resolutions passed by each board of supervisors upon the joint petition of the commission ~~and the owners of at least fifty-one percent of the land area located within the district in each county, which shall be filed by the commission at least sixty days prior to the proposed date of abolition.~~ ~~A joint~~ The petition of the commission shall:

1. ~~May~~ State whether the purposes for which the district was formed substantially have been achieved;

2. ~~May~~ State that all obligations theretofore incurred by the district have been fully paid; *and*

3. ~~May describe the benefits which can be expected from the abolition of the district; and~~

4. ~~3. Shall~~ Request each board of supervisors to abolish the district.

B. Upon receipt of such a petition, each board shall use the standards and procedures described in subsections B and C of § 15.2-4603, mutatis mutandis; however, all interested persons who either reside on or who own real property within the boundaries of the district shall have the right to appear and show cause why the district should not be abolished.

C. If each board of supervisors finds that the abolition of the district would be (i) in accordance with the applicable county comprehensive plan for the development of the area, (ii) in the best interests of the residents and owners of the property within the district, and (iii) in furtherance of the public health, safety and general welfare; and that all debts *and contractual obligations* of the district have been paid and the purposes of the district either have been fulfilled or should not be fulfilled by the district; or that each board of supervisors, with the approval of the voters of each county, has agreed to assume the debts of the district, then each board shall pass a resolution abolishing the district and the district advisory board. Upon abolition of the district, the title to all funds and properties owned by the district at the time of such dissolution shall vest in the county in which the district was located.