

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 197

An Act to amend and reenact §§ 2.2-203, 15.2-2901, 15.2-3400 and 36-139 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 36-132.1, relating to the Commission on Local Government.

[H 1967]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-203, 15.2-2901, 15.2-3400 and 36-139 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 36-132.1 as follows:

§ 2.2-203. Position established; agencies for which responsible.

The position of Secretary of Administration (the "Secretary") is created. The Secretary shall be responsible to the Governor for the following agencies and boards: Department of Human Resource Management, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employment Dispute Resolution, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, ~~Commission on Local Government~~, Charitable Gaming Commission, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

§ 15.2-2901. Membership; appointment, terms and qualifications of members; vacancies; Executive Director.

The Commission shall consist of five members appointed by the Governor subject to confirmation by the General Assembly. The members' terms of office shall be for five years except that original appointments shall be made for such terms that the term of one member shall expire each year. Members initially appointed shall take office on January 1, 1980; thereafter, the members appointed for regular terms shall take office at the beginning of the term for which appointed and those appointed to fill vacancies shall take office immediately upon their appointment. Members shall be eligible for reappointment.

Each member shall, at the time of appointment and during his term of office, be a qualified voter under the Constitution and laws of the Commonwealth and shall further be a person qualified by knowledge and experience in local government. No member of the Commission shall hold any other elective or appointive public office. Notwithstanding any provision of law to the contrary, no person shall be disqualified from membership on the Commission by virtue of any employment held by him with the United States or a state-supported institution of higher learning.

Any vacancy in the membership of the Commission shall be filled for the unexpired term in the same manner in which the original appointment was made.

~~The Governor shall appoint an Executive Director, to serve at his pleasure, of the Department of Housing and Community Development shall also serve as the Executive Director of the Commission,~~ who shall employ such personnel as may be required to carry out the purposes of this chapter. The Executive Director shall also (i) make and enter into contracts as necessary or incidental to the performance of the Commission's duties; (ii) accept grants from the United States or other sources; (iii) exercise supervision of the administration of Commission affairs; and (iv) prepare and submit a budget to the Governor as requested.

§ 15.2-3400. Voluntary settlements among local governments.

Recognizing that the localities of the Commonwealth may be able to settle the matters provided for in this subtitle through voluntary agreements and further recognizing that such a resolution can be beneficial to the orderly growth and continued viability of the localities of the Commonwealth the following provisions are made:

1. Any locality may enter voluntarily into agreement with any other locality or combination of localities whereby any rights provided for its benefit in this subtitle may be modified or waived in whole or in part, as determined by its governing body, provided that the modification or waiver does not conflict with the Constitution of Virginia.

2. The terms of the agreement may include fiscal arrangements, land use arrangements, zoning arrangements, subdivision arrangements and arrangements for infrastructure, revenue and economic growth sharing, dedication of all or any portion of tax revenues to a revenue and economic growth sharing account, boundary line adjustments, acquisition of real property and buildings and the joint exercise or delegation of powers as well as the modification or waiver of specific annexation, transition or immunity rights as determined by the local governing body including opposition to petitions filed pursuant to § 15.2-3203, and such other provisions as the parties deem in their best interest. The terms

of the agreement may also provide for subsequent court review, instituted pursuant to provisions contained in the agreement, by a special court convened under Chapter 30 (§ 15.2-3000 et seq.) of this title.

3. If a voluntary agreement is reached pursuant to this chapter, the governing bodies shall present to the Commission the proposed settlement. The Commission shall conduct a hearing pursuant to *subsection A of § 15.2-2907 A*. The Commission shall report, in writing, its findings and recommendations as to whether the proposed settlement is in the best interest of the Commonwealth. Such report shall not be binding upon any court but shall be advisory in nature only.

4. Upon receipt of the Commission report, the localities, by ordinance passed by a recorded affirmative vote of a majority of the members of each governing body thereof, may adopt either the original or a modified agreement acceptable to all parties. Before adopting such ordinance each local governing body shall advertise its intention to approve such agreement, or modified agreement, at least once a week for two successive weeks in a newspaper having a general circulation in its jurisdiction and such advertisements shall contain a descriptive summary of the agreement or modified agreement. Each locality shall hold at least one public hearing on the agreement or modified agreement prior to the adoption of the ordinance. The publication shall include a statement that a copy of the agreement, or modified agreement, is on file in the office of the clerk of the circuit court for each of the affected jurisdictions.

5. The governing bodies shall petition a circuit court having jurisdiction in one or more of the localities for an order affirming the proposed settlement. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title. The special court shall be limited in its decision to either affirming or denying the voluntary agreement and shall have no authority, without the express approval of each local governing body, to amend or change the terms or conditions of the agreement, but shall have the authority to validate the agreement and give it full force and effect. The court shall affirm the agreement unless the court finds either that the agreement is contrary to the best interests of the Commonwealth or that it is not in the best interests of each of the parties thereto. In determining whether such agreement should be affirmed, the court shall consider, among other things, whether the interest of the Commonwealth in promoting orderly growth and the continued viability of localities has been met. If the agreement is validated and provides for annexation by a city or town, the agreement shall take effect on January 1 of the year set forth in the agreement unless the agreement stipulates that the annexation shall be effective on some other date.

6. The agreement shall not become binding *on the localities* until affirmed by the special court under this section. *Once approved by the special court, the agreement shall also bind future local governing bodies of the localities.*

7. The applicable provisions of this chapter shall be deemed to have been met with regard to any voluntary fiscal agreement or voluntary agreement in settlement of an annexation, transition or immunity petition or voluntary settlement agreement entered into pursuant to this chapter (i) which was entered into before July 1, 1990, (ii) which had been reviewed or was in the process of review by the Commission on Local Government on or before July 1, 1990, (iii) which had been or was the subject of review by a special court convened under Chapter 30 of this title on or before July 1, 1990, or (iv) which had been or was approved by a special court convened under Chapter 30 of this title on or before July 1, 1990.

8. The provisions of § 15.2-3226 shall apply when a voluntary agreement made under this section includes the annexation of territory by a city or town. No election for members of council shall be held as a result of such annexation unless the city or town increases its population by more than five percent due to the annexation.

§ 36-132.1. Commission on Local Government.

The Department shall include the Commission on Local Government, which shall exercise the powers and duties described in §§ 15.2-1301, 15.2-2303.2, and Chapters 29 (§ 15.2-2900 et seq.), 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 34 (§ 15.2-3400 et seq.), 35 (§ 15.2-3500 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), 40 (§ 15.2-4000 et seq.), and 41 (§ 15.2-4100 et seq.) of Title 15.2 and §§ 30-19.03 through 30-19.03:1.1.

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.
5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.
6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.
7. Developing a Consolidated Plan to guide the development and implementation of housing programs and community development in the Commonwealth for the purpose of meeting the housing and community development needs of the Commonwealth and, in particular, those of low-income and moderate-income persons, families and communities.
8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.
9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.
10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.
11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).
12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).
13. Administering the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).
14. Establishing and operating a Building Code Academy for the training of persons in the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board of Housing and Community Development.
15. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.
16. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.
17. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.
18. Advising the Board on matters relating to policies and programs of the Virginia Housing Partnership Revolving Fund.
19. Designing and establishing program guidelines to meet the purposes of the Virginia Housing Partnership Revolving Fund and to carry out the policies and procedures established by the Board.
20. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Partnership Revolving Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund; directing the Virginia Housing Development Authority as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Virginia Housing Development Authority as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund.
21. Advising the Board on matters relating to policies for the low-income housing credit and administering the approval of low-income housing credits as provided in § 36-55.63.
22. Establishing and administering program guidelines for a statewide homeless intervention program.
23. Administering ~~fifteen~~ 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations.
- ~~24. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.~~
- ~~25.~~ 24. Developing a strategy concerning the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.
- ~~26. Serving as the Executive Director of the Commission on Local Government as prescribed in § 15.2-2901 and perform all other duties of that position as prescribed by law.~~
26. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.