

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 444

An Act to amend and reenact § 15.2-3400 of the Code of Virginia, relating to voluntary settlements; authority of towns to accept proffers.

[H 2694]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-3400 of the Code of Virginia is amended and reenacted as follows:

§ 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, *provisions for the acceptance on each other's behalf of proffered conditions under § 15.2-2298 or § 15.2-2303*, 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 until affirmed by the special court under this section.

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.