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SENATE BILL NO. 1313

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact §§ 2 and 3, § 4 as amended, and §§ 5, 6, 9, 10, 11, and 12 of Chapter 40 of the Acts of Assembly of 1966, which provided a charter for the Town of Hurt, and to repeal § 13 of Chapter 40, relating to boundaries, elections, town officers and general powers.

Patron—Hurt

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2 and 3, § 4 as amended, and §§ 5, 6, 9, 10, 11, and 12 of Chapter 40 of the Acts of Assembly of 1966 are amended and reenacted as follows:

§ 2. The boundaries of the proposed town of Hurt shall be as follows:

Beginning at the southwestern corner of the property of the new Altavista filter plant; thence in a northern direction along a fence 715.54 feet to a point in the center of the Staunton River; thence upstream following the center line of said Staunton River as it meanders a distance of 8124 feet to a point; thence leaving the center line of said Staunton River in a southwestern direction along the line of C. A. Arthur, crossing the Virginia Railroad right-of-way and continuing in a straight line along the lines of C. A. Arthur, Herman Parrish and John L. Hurt Estate to a point in the center of Sycamore Creek, which point is 1885 feet from the center line of Staunton River; thence up the center line of said creek as it meanders 1150 feet to a point; thence leaving the center of said creek in a southeastern direction following the line of the Burlington Mills property a distance of 1720 feet to a point; thence in an eastern direction following the property line of the Burlington Mills property a distance of 3791.46 feet to a point in the western margin of the right-of-way of U. S. highway 29; thence along the western right-of-way line of said U. S. Highway 29 as it meanders in a southwestern direction a distance of 4184.7 feet to a point, which point is 1033.20 feet northeast of a concrete monument in the highway right-of-way line at the corner of the Virginia State Highway Roadside Park; thence leaving the right-of-way of said highway in a southeastern direction, crossing said highway and crossing the right-of-way of the Southern Railroad Company along the lines of the church lot and the property lines of the John L. Hurt Estate to a point, which is 1334.7 feet from the western margin of U. S. Highway 29; thence following the property lines of the John L. Hurt Estate and Monk Hubbard 785 feet to a point; thence with Booth and Hubbard 640 feet to a point; thence following the property lines of the Altavista Country Club as it meanders a total of 3444.5 feet to a point on the western margin of State Route 637; thence along the margin of State Route 637 as it meanders in a southern direction 457 feet to a point; thence leaving the western margin of said State Route 637 and crossing the same a distance of 3215.95 feet along the lines of M. A. Woolridge and F. A. Dowdy to a point in the center line of the gas transmission line of the Virginia Pipe Line Company; thence along the same 434.10 feet to a point on the western margin of State Route 634; thence continuing along the approximate center line of the said gas transmission line to a point in the eastern margin of the right-of-way of the Virginia Electric and Power Company easement; thence in a northern direction along the eastern margin of said electric right-of-way easement as it meanders a distance of 7989.4 feet to a point in the center line of Reed Creek; thence continuing along the center line of said creek, crossing State Route 668, 2833.94 feet to a point near the new Altavista filter plant; thence leaving said creek a distance of 155.53 feet to an iron at the point of beginning, containing approximately 1749 acres, all as shown on a map of Hurt, Virginia, dated November 1955, prepared by Hayes, Seay, Mattern & Mattern, Architects and Engineers, Roanoke, Virginia, and revised and traced by E. L. Moore, C.L.S., December 1965, to which is added the area described in an order of the Circuit Court of Pittsylvania County entered on April 25, 2008, and recorded in the Clerk's Office of the Circuit Court of Pittsylvania County as Instrument Number 080002953 and 080002954.

§ 3. The town of Hurt shall have and may exercise all powers which it now has or which may hereafter be conferred upon or delegated to it under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of the affairs and functions of the municipal government, the exercise of which is not expressly prohibited by the Constitution and the general laws of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the inhabitants of the municipality and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce and industry of the municipality and the inhabitants thereof, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant

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59 of power, but shall be construed and held to be in addition to any general grant of power. The exercise
60 of the powers conferred under this section is specifically limited to the area within the corporate limits
61 of the municipality, unless otherwise conferred in the applicable sections of the Constitution and general
62 laws, as amended, of the Commonwealth.

63 In addition to the foregoing, the powers set forth in §§ ~~15.1-841 to 15.1-907~~ *15.2-1100 through*
64 *15.2-1131*, inclusive, *of Chapter 11 of Title 15.2 of the Code of Virginia as in force on the first day of*
65 *January, nineteen hundred sixty-six, as now exists, and is hereinafter amended*, are hereby conferred on
66 and vested in the town of Hurt.

67 § 4. Administration and Government.

68 (1) The administration and government and all powers and authority connected therewith, of any
69 pertaining to the town of Hurt shall be vested in the council of the town of Hurt and such boards or
70 officers as hereinafter mentioned or may otherwise be provided by the council or general law. The
71 council shall consist of a mayor and six ~~councilmen~~ *council members*, all elected as provided
72 hereinafter.

73 (2) The mayor and the six ~~councilmen~~ *council members* shall be elected at large by the qualified
74 voters of the town, and shall be elected ~~at the regular time in May, 1976 fixed by law for the holding of~~
75 ~~municipal elections. The three candidates receiving the highest number of votes shall serve a term of~~
76 ~~four years each and the three candidates receiving the next highest number of votes shall serve for terms~~
77 ~~of two years each on the Tuesday following the first Monday in November of even years. The mayor~~
78 ~~shall be elected for a term of four years.~~

79 At the ~~regular~~ municipal election to be held in ~~May, 1978~~ *November, 2010* and every two years
80 thereafter three ~~councilmen~~ *council members* shall be elected for terms of four years each. At the ~~regular~~
81 municipal election to be held in ~~May, 1980~~ *November, 2012* and every four years thereafter the mayor
82 shall be elected for a term of four years. *The mayor and council members elected in the election of 2008*
83 *shall serve out their terms through 2012.*

84 Terms of office shall commence on the first day of ~~July~~ *January* next following their election and
85 ~~the council members and mayor shall continue in office~~ until their successors have been elected and
86 qualified. The council shall be a continuing body, and no measure pending before such body shall abate
87 or be discontinued by reason of expiration of the term of office or removal of the members of said body
88 or any of them. Every person elected shall take an oath faithfully to execute and discharge the duties of
89 his *or her* office to the best of his *or her* judgment, and the mayor shall take the oath prescribed by law
90 for State officers. The failure of any person elected or appointed under the provisions of this act to
91 qualify or to take the oath required, within the time prescribed for entering upon the discharge of the
92 duties of the office to which he *or she* is elected or appointed, shall vacate the said office, and the
93 council shall proceed and are hereby vested with power to fill such vacancy in the manner herein
94 prescribed.

95 (3) ~~There shall be appointed for the town a registrar and officers of election in the manner provided~~
96 ~~for by general law of Virginia, and all elections held in said town shall be governed in accordance with~~
97 ~~said general law; the electorate shall be that prescribed by general law.~~

98 (43) The council of the town shall judge the election, qualification and return of its members; may
99 fine them for disorderly conduct, and with concurrence of two-thirds vote of the council, expel a
100 member. If any person returned, be adjudged disqualified, or be expelled, a new election to fill the
101 vacancy shall be ordered by the council and held on such day as it may designate by ordinance. Any
102 other vacancy occurring during the term of any member of the council shall be filled by the council by
103 the appointment of any one eligible to such office. A vacancy in the office of mayor shall be filled by
104 the council from the electors of the town, and any member of the council may be eligible to such office.

105 (54) For the transaction of business by the council, four members of whom the mayor may be
106 counted as one, shall constitute a quorum.

107 (65) Each member of the council may receive a salary to be fixed by the council, payable at such
108 times, and in such manner, as the council may direct, but the salary paid to any one member during any
109 year shall not exceed the sum of three hundred (\$300.00) dollars per annum; the mayor may receive a
110 salary to be fixed by the council, payable in such manner and at such times as the council may direct,
111 not to exceed the sum of six hundred (\$600.00) dollars per annum.

112 (76) The mayor shall preside at the meetings of the council and perform such other duties as may be
113 prescribed by this charter and by general law, and such as may be imposed by the council, consistent
114 with his *or her* office. The mayor shall have no right to vote in the council except that in case of a tie
115 vote then the mayor shall vote. ~~The mayor shall, unless the council shall by resolution place the trial of~~
116 ~~violations of town ordinances in the hands of the trial justice, or some other duly authorized person, be~~
117 ~~clothed with authority to try all violations of any ordinance of the town, and shall be a conservator of~~
118 ~~the peace within the limits of the town. An appeal shall lie as provided by general law from any~~
119 ~~decision of the mayor or trial justice or other person acting as judicial officer in a court of limited~~
120 ~~jurisdiction for the town of Hurt.~~

(87) The council shall, as soon as practicable, after qualification, choose one of its members as vice-mayor. The vice-mayor shall perform the duties of the mayor during his *or her* absence or disability, and in event of a vacancy for any reason in the office of mayor, he *or she* shall serve until a mayor is duly appointed by the council or is elected. The said vice-mayor shall continue to have all rights, privileges, powers, duties and obligations of ~~councilman~~ *a council member* while performing the duties of mayor during the absence or disability of the mayor of the town; ~~and the said vice-mayor shall be clothed with authority to try all violations of any ordinance of the said town in absence of the mayor or in event of the mayor for any reason being disqualified to try any such violation.~~ In the absence of the mayor or vice-mayor, the mayor may designate a member of the council to perform his *or her* duties.

(98) The council shall, by ordinance, fix the time for their meetings, but shall have at least one meeting each month. Special meetings shall be called by the clerk at the instance of the mayor or any three members of the council, in writing; no business shall be transacted at the special meeting but that for which it shall be called, unless the council be unanimous. The meetings of the council shall be open to the public except when in the judgment of the council the public welfare shall require ~~executive~~ *closed sessions pursuant to the laws of the Commonwealth.*

(109) The council shall keep a minute book, in which the clerk shall note the proceedings of the council, and shall record proceedings at large on the minute book and keep the same properly indexed.

(~~110~~) The council may adopt rules for regulating its proceedings, but no tax shall be levied or corporate debt contracted except by a vote of two-thirds of the council, four votes being counted as two-thirds, which vote shall be taken by yeas and nays, and recorded in the minute book. It may appoint such committees as may be deemed proper for the transaction of business, and may compel attendance of absent members.

(~~121~~) The council may require the mayor to communicate to it annually as soon after the close of the fiscal year, or oftener, if necessary, a general statement of the condition of the town in relation to its government, finances and improvements, with such recommendations as he *or she* may deem proper. He *or she* shall exercise a constant supervision over the conduct of all subordinate officers, have power and authority to investigate their acts, have access to all books and documents in their offices, and may examine such officer on oath. He *or she* shall have power to suspend all officers appointed by the council until the next regular meeting of the council, but such suspension shall in all cases be for misconduct in office or neglect of duty, to be specified in the order of suspension. In case of suspension of any officer the mayor shall submit a written report of the same to the council at its next regular meeting, or any meeting called for that purpose, specifically designating the charge against the officer and reasons for dismissal, and in case of suspension by the mayor, he *or she* shall have power to appoint some other person in his *or her* place to hold such office and perform the duties thereof until the next regular meeting of the council.

§ 5. Town Clerk.

At its first regular meeting, or as soon thereafter as practicable, and every three years thereafter, there shall be appointed by the council a clerk, who shall ~~hold office for a period of three years, unless sooner removed by the council for cause, and said~~ *serve at the pleasure of the council.* The clerk shall attend all meetings of the council, and shall keep a permanent record of its proceedings as hereinbefore set out; he *or she* shall be custodian of the town seal, and shall affix the same to all documents and instruments requiring a seal, and shall attest the same; he *or she* shall keep all papers, codes, documents, and records pertaining to the town, the custody of which is not otherwise provided for in this charter. He *or she* shall give all notices to all parties, presenting petitions or communications to the council of the final action of the council on such petitions or communications; he *or she* shall publish such reports and ordinances as the council is required to publish, and such other records and ordinances as it may direct, *and*; he *or she* shall perform such other acts or duties as the council may, from time to time, require.

§ 6. Town Treasurer.

(1) There shall be appointed by the council at its first meeting, or as soon thereafter as practicable, and every three years thereafter, a treasurer, who shall ~~serve at the pleasure of the council. hold office for a term of three years, who before~~ *Before* entering upon the discharge of his *or her* duties the treasurer shall give bond with sufficient surety to be approved by the council, in the penalty of such amount as may be fixed by the council from time to time, payable to the town of Hurt, conditioned for the true and faithful performance of the duties of his *or her* office. The treasurer shall be responsible for the collection of all taxes, licenses, and levies and charges for services furnished by the public utilities of the town. The council shall have the authority to place in the hands of a town collector to be designated by it, the collection of any taxes, licenses and other levies at any time if in the discretion of the council it shall be proper so to do.

(2) The town treasurer shall receive all moneys belonging to the town which it is his *or her* duty to

182 collect from persons owing the same to the town, or which it is the duty of other officers of the town to
183 collect and pay over to him *or her*, and pay the same out as ordinances of the town may prescribe; to
184 keep all such moneys safely, and account therefor; and to pay all drafts and orders made on him *or her*
185 in conformity with ordinances of the town.

186 (3) The funds of the town shall be deposited by the treasurer in such bank or banks as the council
187 may direct, and such bank or banks may be required to give security in such sum or sums as the
188 council shall fix. He *or she* shall keep books showing accurately the date of his *or her* accounts and the
189 money of the town shall be kept distinct and separate from his *or her* own money, and he *or she* is
190 prohibited expressly from using directly or indirectly the town's money for his *or her* own benefit, or
191 the benefit of any other person or persons whomsoever, and any violation of this provision shall subject
192 him *or her* to immediate removal from office *and criminal prosecution*.

193 (4) The town treasurer shall, when required by the council, render an account to the council showing
194 the state of the treasury and balance of money on hand. He *or she* shall also, when required by the
195 council, accompany such account with a statement of all moneys received by him *or her* on what
196 account with a list of checks paid by him *or her* during the month closed, and shall furnish such other
197 information as the council may direct, and at all times the accounts and books of the treasurer shall be
198 open to inspection by the mayor and council, and to any other person or persons appointed by the
199 council to inspect the same.

200 (5) All taxes, levies and other sums of money received by the town treasurer belonging to the town
201 of Hurt, shall be credited on the books of the treasurer, and paid out by him *or her* only on a warrant of
202 the clerk of the council, countersigned by the mayor, or vice mayor in absence of the mayor.

203 (6) The treasurer shall perform such other duties as may be required by the council, not inconsistent
204 with the general laws of the State, and he *or she* shall receive for his *or her* services such compensation
205 as the council may deem proper.

206 § 9. Taxes.

207 (1) In addition to all other powers mentioned in this charter and granted by general law, the town
208 council shall have power to raise annually by taxes and assessments in the said town on all subjects of
209 taxation which are not forbidden by general law to incorporated towns, such sums of money as the
210 council may deem necessary for the purpose of the town, and in such manner as the council shall deem
211 expedient, in accordance with the Constitution and laws of this State and of the United States.

212 (2) The town council may levy a tax or license on any person, firm or corporation pursuing or
213 conducting any trade, business, profession, occupation, employment or calling whatsoever, within the
214 boundaries of the town, whether a license may be required therefor by the State or not, and may exceed
215 the State license, if any be required, except when prohibited by general law.

216 (3) Any payment of delinquent taxes made by the tenant, unless under express contract contained in
217 his *or her* lease, shall be a credit against the person to whom he *or she* owes rent.

218 (4) The council may require owners of motor vehicles, trailers, semi-trailers, and other vehicles of
219 any kind, residing in the town, licenses for the privilege of operating such vehicle in the town, such
220 license to be issued and the fee therefor fixed by the town council.

221 (5) All goods and chattels found, may be distrained and sold for taxes assessed and due thereon, and
222 no deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained and
223 sold for taxes.

224 (6) The council may add penalties for failure of any person or firm or corporation to pay taxes or
225 licenses at the time provided for by ordinance of the council, and there shall be a lien for all taxes
226 assessed which may be enforced as provided by general law of the State.

227 (7) The council may, by a two-thirds vote of the body, exempt real and personal property used for
228 manufacturing purposes or other enterprises from all taxes for municipal purchases for a period not
229 exceeding five years, if it deem it expedient to do so in order to encourage the establishment of such
230 enterprise therein or thereon.

231 (8) The assessment of real and personal property in the town, for the purpose of municipal taxation,
232 shall be the same as the assessment of such property for the purpose of county or State taxation, where
233 there is a county or State assessment of such property.

234 (9) The council, in the name of and for the use of the town, may contract loans, incur indebtedness
235 and cause certificates of debt or bonds to be issued, whenever two-thirds of its members by a recorded
236 vote decide that it is to the interest of the town so to do, but such council may only borrow money to
237 the extent prescribed by the Constitution and laws of this State. But the council shall issue no bonds or
238 certificates of debt, except in anticipation of current revenue, until it shall have first submitted to the
239 qualified voters of said town the question of whether or not such bonds shall be issued and a majority
240 of the qualified voters voting at any election held for such purpose shall have voted for such issue. Such
241 election shall be held under the provisions of the general laws of this State, except the council shall
242 have power to call such election and fix the date thereof by ordinance, copy of which shall be published
243 at least five days beforehand in some newspaper published in said town or having general circulation

therein. The publisher of the newspaper shall certify to the publication thereof, which certification shall be recorded in the minute book of the town. The judges conducting any such election shall certify the returns to the clerk of the circuit court of Pittsylvania County and to the said council, not to the judge of the circuit court of said county.

(10) A lien shall exist on all real estate within the corporate limits for taxes, levies and assessments in favor of the town, assessed thereon from the commencement of the year for which the same were assessed and the procedure for collecting the said taxes, for selling of real estate for town taxes, and for the redemption of real estate sold for town taxes, shall be the same as provided in the general laws of the State, to the same extent as if herein fully set out. The said town and its treasurer shall have the benefit of all other additional remedies for the collection of town taxes which are now or hereafter may be granted or permitted by and under the general law.

(11) If, as provided by paragraph (7) of § 4 hereof, the mayor is appointed to preside in a court of limited jurisdiction for the trial of the violation of town ordinances, his salary therefor shall be set by the council and shall be in addition to such salary, if any, awarded the mayor pursuant to paragraph (6) of § 4. The council may also provide for a substitute judicial officer to act in the absence of the mayor.

§ 10. Actions Against Town for Damages, etc.

(1) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town, or any officer, agent or employee thereof, unless a written statement, verified by oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a result of the alleged negligence of the town, its officers, agents, or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred, or to have been received, shall have been filed with the mayor or an attorney appointed by the Council for this purpose, and the town is hereby authorized to appoint such an attorney, within sixty days after such cause of action shall have accrued, except where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days, such statement may be filed within one hundred and twenty days. No officers, agents, or employees of the town shall have authority to waive such conditions precedent or any of them.

(2) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs, or water mains, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in such action brought to recover damages for such negligence, and where there is a judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(3) If it be ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or corporation or corporations shall have been returned without realizing the full amount of such judgment.

(4) If the town, when not primarily liable, shall pay the said judgment in whole or in part, the plaintiff shall, to the extent that the said judgment is paid by the town, assign the judgment to the town, without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit to enforce the said judgment, or an action at law, or scire facias to revive the said judgment.

(5) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay proceedings of the town in the prosecution of their works unless it be manifest that they, their officers, agents, or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

(6) The council of said town is authorized and empowered to compromise any claim for damages or any suit or action brought against said town.

§ 11. Dedication of Streets and Plats Thereof.

(1) No plat showing a new street or highway within the town shall be filed or recorded in the office of the clerk or of any county until such plat shall have been approved by the council or its designated agent. The council shall not approve any such plat unless the streets and highways provided for therein are of sufficient width, of proper grades and suitable located to meet the probable traffic needs, to afford adequate light, air, and access of the fire apparatus to such buildings as may be erected along the proposed streets and highways; and to insure healthful conditions on the land adjacent to such streets or highways. The council may, in appropriate cases, require that a plat before being approved shall provide adequate open space for parks, playgrounds, or other recreational uses; but the inclusion of such open spaces upon a plat does not require their dedication to public use.

305 (2) Before approving any such plot the town council may, at its discretion, require the owner of such
306 land to grade the streets and alleys thereon, according to grade or grade lines approved by the council.
307 By the acceptance of any such plat, street, alley or highway as above set out, there shall be no liability
308 upon the town to surface such street, or to install any sewage, water, gas, lights or other improvements,
309 until in the judgment of the council the same is required.

310 § 12. (1) Whenever under the provisions of this charter any officer of the town or member of any
311 board or commission is elected or appointed for a fixed term, except the mayor and vice mayor, such
312 officer or member shall continue to hold office until his *or her* successor is appointed and qualified.

313 (2) All ordinances of the county of Pittsylvania, and all rules, regulations and orders legally made by
314 any duly constituted authority empowered to pass such ordinances, and make such rules and regulations,
315 insofar as they or any portion thereof are not inconsistent herewith, shall remain in force until amended
316 or repealed in accordance with the provisions of this charter.

317 (3) The town of Hurt and all the officers thereof elected or appointed in accordance with the
318 provisions of this act shall be clothed with all the powers and subject to all the provisions of general
319 law not in express conflict with the provisions of this act.

320 **2. That § 13 of Chapter 40 of the Acts of Assembly of 1966 is repealed.**

321 **3. That this act may for all purposes be referred to as the Charter of the Town of Hurt of 1966,**
322 **as amended.**

323 **4. That an emergency exists and this act is in force from its passage.**