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## SENATE BILL NO. 572

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 4.08 and 9.18, as severally amended, of Chapter 536 of the Acts of Assembly of 1950, which provided a charter for the City of Alexandria, relating to the board of review of real estate assessment and the board of zoning appeals.

Patron—Ticer

Referred to Committee on Local Government

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.08 and 9.18, as severally amended, of Chapter 536 of the Acts of Assembly of 1950 are amended and reenacted as follows:**

§ 4.08. Assessment and Equalization.—(a) The City Manager shall provide for the annual assessment and equalization of assessments of real estate for local taxation, and to that end may establish a city real estate assessment office and appoint an assessor to assess such real estate for taxation and to equalize such assessment. The budget for the city real estate assessment office shall be approved by the city council.

(b) All duties imposed and all powers conferred by law on the Commissioner of the Revenue with respect to the assessment of real estate shall be transferred to the assessor appointed pursuant hereto. The director of finance shall continue to prepare the land book and make disposition of the copies thereof as required by law. The land book shall be prepared by the director of finance on the basis of the assessments made by the assessor and certified to him. Transfers shall be verified by the director of finance.

(c) All real estate shall be assessed at its fair market value as of January first of each year by such assessor, and shall not be reassessed during such year subject to such modifications as may have been lawfully made, and taxes for each year on such real estate shall be extended by the director of finance on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made; provided, however, no notices of assessment shall be mailed or delivered during the month of December of any year and any such notices mailed or delivered during such month shall be void, unenforceable and of no effect.

(d) Notwithstanding any of the provisions of §§ ~~58-895~~ 58.1-3370 and ~~58-899 to 58-901~~ 58.1-3373 to 58.1-3376, inclusive, of the Code of Virginia, *as amended*, there shall be appointed to three-year staggered terms a board of review of real estate assessments composed of ~~five~~ *nine* members, ~~three~~ *five* of whom shall be appointed by the circuit court of said city or the judge thereof in vacation and ~~two~~ *four* of whom shall be appointed by the council of said city. All members of the board shall be residents of and own real property within the city. *Members serving on the board as of July 1, 2010, shall continue in office until the completion of their terms. Beginning July 1, 2010, the circuit court or the judge thereof in vacation and the Alexandria City Council shall each appoint one additional member for a two-year term and one additional member for a three-year term. After these initial appointments, all subsequent appointments shall be for three-year terms.*

Commencing after the expiration of the terms of the present board members, the circuit court or the judge thereof in vacation shall appoint one member for a one-year term, one member for a two-year term, and one member for a three-year term, and the council of said city shall appoint one member for a two-year term and one member for a three-year term. The initial terms of such *all* members shall commence on their appointment and shall expire on the ~~thirtieth~~ *thirty-first* day of ~~November~~ *December* of the year in which their term ends. The circuit court or the judge thereof in vacation and the council of said city shall fill any vacancy therein for the unexpired term of their respective appointees. The members of the said board shall receive per diem compensation for the time actually engaged in the duties of the board, to be fixed by the council of said city, and to be paid out of the treasury of said city; provided, however, that the council of said city may limit the per diem compensation to such number of days as, in its judgment, is sufficient for the completion of the work of the board.

Such board of review shall have and may exercise the power to revise, correct and amend any assessments of real estate made by said assessor in the year in which such assessments are effective, within such time as the council shall provide in accordance with § ~~58-903~~ 58.1-3378 of the Code of Virginia, *as amended*, and to that end shall have all the powers conferred upon the boards of equalization by §§ ~~58-903 to 58-912~~ 58.1-3378 to 58.1-3387, inclusive, of the Code of Virginia, *as amended*. Notwithstanding any provision of said sections, however, the board of review may adopt any

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59 regulations providing for the oral presentation, without formal petitions or other pleadings of requests for  
60 review, and looking to the further facilitation and simplification of proceedings before the board, except  
61 that all matters before the board whether on behalf of the taxpayer or assessor, shall be presented in  
62 public session.

63 *The board of review may sit in panels of at least three members each under the following terms and*  
64 *conditions:*

65 *1. The presence of all members in the panel shall be necessary to constitute a quorum.*

66 *2. The chairman of the board of equalization shall assign the members to panels and, insofar as*  
67 *practicable, rotate the membership of the panels.*

68 *3. The chairman of the board of equalization shall preside over any panel of which he is a member*  
69 *and shall designate the presiding member of the other panels.*

70 *4. Each panel shall perform its duties independently of the others.*

71 *The board of equalization shall sit en banc (i) when there is a dissent in the panel to which the*  
72 *matter was originally assigned and an aggrieved party requests an en banc hearing or (ii) upon its own*  
73 *motion at any time, in any matter in which a majority of the board of equalization determines it is*  
74 *appropriate to do so. The board of equalization sitting en banc shall consider and decide the matter*  
75 *and may affirm, reverse, overrule or modify any previous decision by any panel.*

76 Any person of said city aggrieved by any assessment made by said assessor or board of review may  
77 apply for relief in the manner provided by §§ ~~58-1145 to 58-1151~~ 58.1-3984 to 58.1-3989, inclusive, of  
78 the Code of Virginia, *as amended*; provided, however, that no person aggrieved by any assessment made  
79 by the assessor may apply for or be entitled to relief pursuant to said sections of the Code of Virginia  
80 until the assessment complained of has first been reviewed by and acted upon by the board of review.

81 (e) This law shall not apply to the assessment of any real estate assessable under the law by the State  
82 Corporation Commission.

83 (f) All acts and parts of acts relating to the assessment of real estate in cities not in conflict with the  
84 provisions hereof shall apply to the assessments made hereunder.

85 (g) The Council may require that the owners of income-producing real estate in the city subject to  
86 local taxation, except property producing income solely from the rental of no more than four dwelling  
87 units, furnish to the said assessor on or before a specified time statements of the income and expenses  
88 attributable over a specified period of time to each such parcel of real estate. Each such statement shall  
89 be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a  
90 duly authorized agent thereof. Any statement required by this section shall be kept confidential as  
91 required by § ~~58-46~~ 58.1-3 of the 1950 Code of Virginia, as amended.

92 § 9.18. Powers of Board of Zoning Appeals.—The board shall have the following powers and it shall  
93 be its duty:

94 (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision  
95 or determination by the director of planning in the administration and enforcement of the provisions of  
96 the ordinance.

97 (b) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will  
98 not be contrary to the public interest, when, owing to special conditions a literal enforcement of the  
99 provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed  
100 and substantial justice done, as follows:

101 When a property owner can show that his property was acquired in good faith and where by reason  
102 of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of  
103 the effective date of the ordinance, or where by reason of the exceptional topographical condition or  
104 other extraordinary situation, or condition of such piece of property, or of the use or development of  
105 property immediately adjacent thereto, the strict application of the terms of the ordinance would  
106 effectively prohibit or unreasonably restrict the use of property or where the board is satisfied, upon the  
107 evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship  
108 ~~approaching confiscation~~, as distinguished from a special privilege or convenience sought by the  
109 applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the  
110 ordinance.

111 No such variance shall be authorized by the board unless it finds:

112 (1) That the strict application of the ordinance would produce undue hardship.

113 (2) That such hardship is not shared generally by other properties in the same zone and the same  
114 vicinity and is not created by the owner of such property.

115 (3) That the authorization of such variance will not be of substantial detriment to adjacent property  
116 and that the character of the zone will not be changed by the granting of the variance.

117 No variance shall be authorized unless the board finds that the condition or situation of the property  
118 concerned or the intended use of the property is not of so general or recurring a nature as to make  
119 reasonably practicable the formulation of a general regulation to be adopted as an amendment to the  
120 ordinance.

121 In authorizing a variance the board may impose such reasonable conditions regarding the location,  
122 character and other features of the proposed structure or use as it may deem necessary in the interest of  
123 public health, safety or welfare and to assure that the variance authorized shall be in harmony with the  
124 intended spirit and purpose of this chapter and the ordinance.

125 (c) To permit, when reasonably necessary in the public interest, the use of land, or the construction  
126 or use of buildings or structures, in any zone in which they are prohibited by the ordinance, by any  
127 agency of the city, state, or the United States, provided such construction or use shall adequately  
128 safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property,  
129 shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase  
130 congestion in streets and shall not increase public danger from fire or otherwise affect public safety.

131 (d) To permit the following exceptions to the zone regulations and restrictions, provided such  
132 exceptions shall by their design, construction and operation adequately safeguard the health, safety and  
133 welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an  
134 adequate supply of light and air to adjacent property, shall not increase public danger from fire or  
135 otherwise unreasonably affect public safety, and shall not diminish or impair the established property  
136 values in surrounding areas:

137 (1) (Deleted.)

138 (2) Extension of a zone where the boundary line of a zone divides a lot in single ownership as  
139 shown of record at the time of the effective date of the ordinance.

140 (3) Reconstruction of buildings or structures that do not conform to the comprehensive zoning plan  
141 and regulations and restrictions prescribed for the district in which they are located, which have been  
142 damaged by explosion, fire, act of God or the public enemy, to the extent of more than sixty per cent of  
143 their fair market value as established by the opinion of three disinterested appraisers to be appointed by  
144 the city council, when the board finds some compelling public necessity for a continuance of the use  
145 and such continuance is not primarily to continue a monopoly, provided that nothing herein shall relieve  
146 the owner of any such building or structure from obtaining the approval of such reconstruction by the  
147 council or any department or officer of the city when such approval is required by any law or ordinance.