

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 293

*An Act to amend and reenact §§ 15.1-1054 and 15.1-1167.1 of the Code of Virginia, relating to elections required after annexations.*

[H 1177]

Approved April 4, 1994

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

**1. That §§ 15.1-1054 and 15.1-1167.1 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-1054. How new territory organized; to what wards attached; transfer of electors, elections.

Whenever, by extension of its territorial limits as aforesaid, territory is annexed to a city or town, the council thereof shall, if the city or town is divided into wards, by ordinance immediately organize the same into a new ward or wards and forthwith select the proper number of councilmen from the residents and qualified voters of such new ward or wards to serve until the next general election, or attach the same to an existing ward or wards, under such regulations as are provided by law. Whether the city or town is divided into wards or not, all electors residing in the annexed territory shall be entitled to transfers to the proper pollbooks in the city or town without again registering therein. Any person residing in the territory who has not registered shall be entitled to register and vote in the city or town, if he would have been entitled to register and vote at the next succeeding election in the county. For the purposes of this section, any person residing in the annexed territory who was qualified to register and vote in the county prior to annexation, shall be deemed to be a resident of the city or town and qualified to vote in the next general or special election therein pursuant to § 24.1-41. The failure of the council to so district the territory shall invalidate an election held in the city or town following annexation.

Notwithstanding any provision of law to the contrary there shall be an election for members of council on the first Tuesday in May following the effective date of annexation. If council members are chosen on an at-large basis the election shall be held for the unexpired portion of the term of each council member whose term extends beyond July 1, or September 1, whichever date by law applies to such council terms, immediately following the effective date of annexation. If council members are chosen on a ward basis, the election shall be held for each ward affected by the annexation; ~~provided, however, .~~ However, no such election shall not be held as a result of an annexation instituted under § 15.1-1033 or § 15.1-1034, or unless the city or town instituting annexation under § 15.1-1033 shall increase its population by more than five percent of its population existing at the time of the passage of the ordinance referred to in § 15.1-1033 due to the annexation.

§ 15.1-1167.1. Voluntary settlements among local governments.

Recognizing that the counties, cities and towns of the Commonwealth may be able to settle the matters provided for in Chapters 20.2 (§ 15.1-965.9 et seq.), 21 (§ 15.1-966 et seq.), 21.1 (§ 15.1-977.1 et seq.), 21.2 (§ 15.1-977.19:1 et seq.), 22 (§ 15.1-982.1 et seq.) and 25 (§ 15.1-1032 et seq.) of this title through voluntary agreements and further recognizing that such a resolution can be beneficial to the orderly growth and continued viability of the counties, cities and towns of the Commonwealth the following provisions are made:

1. Any county, city or town may enter voluntarily into agreement with any other county, city or town or combination thereof whereby any rights provided for its benefit in the aforementioned chapters 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 § 15.1-1034, 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 26.2 (§ 15.1-1168 et seq.) of this title.

3. In the event 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 § 15.1-945.7 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 local governments, 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 and may thereafter petition the circuit court for an order establishing the rights of the local governments as set forth under the specified agreed terms. 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 published in or having a general circulation in its jurisdiction and such advertisements shall contain a descriptive summary of such agreement or modified agreement. Each locality shall hold at least one public hearing on such agreement or modified agreement prior to the adoption of such ordinance. The publication shall include a statement that a true copy of the agreement, or modified agreement, is on file in the office of the clerk of the circuit court of each of the affected jurisdictions.

5. The governing bodies shall present to a special court convened under Chapter 26.2 of this title the proposed settlement. The 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 local governments has been met. In the event the agreement is validated and provides for annexation by a city or town, the same shall take effect at midnight on December 31 of the year set forth in the agreement unless the agreement stipulates that the annexation shall be effective at midnight of some other date or dates.

6. Upon affirmation of the agreement by the court, it shall become binding on future local governing bodies.

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 has been previously entered into or (ii) which has been reviewed or is in the process of review by the Commission on Local Government or (iii) which has been or is the subject of review by a special court convened under Chapter 26.2 of this title or (iv) which has been or is approved by a special court convened under Chapter 26.2 of this title.

8. The provisions of § 15.1-1054 shall apply when a voluntary agreement *made under this section* includes the annexation of territory by a city or town.