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## HOUSE BILL NO. 1648

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns)

(Patron Prior to Substitute—Delegate Putney)

House Amendments in [ ] — February 7, 1995

*A BILL to amend and reenact §§ 15.1-21.1 and 15.1-1135 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.1-1146.1:2 and 22.1-57.1:1, relating to disbursements by the Commonwealth to a consolidated city; consolidation of city and county; powers of a political subdivision and a school board within a consolidated city.*

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

**1. That §§ 15.1-21.1 and 15.1-1135 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.1-1146.1:2 and 22.1-57.1:1 as follows:**

§ 15.1-21.1. Certain Commonwealth distributions to local governments.

Any state funds that were distributed to a county, city, town, or a local school board in support of a governmental program or function prior to a consolidation of such program or function or the governmental consolidation of the entities providing such programs or functions, shall continue to be distributed to the entity or entities carrying out the program or function after consolidation and shall not be reduced below the amounts that would have been received by each entity from the Commonwealth for the governmental program or function computed on the premise that no consolidation occurred for a period of five fiscal years following the consolidation.

This section shall not prohibit the Commonwealth from terminating or modifying any program or function under which distribution to a county, city, town, or local school board has been made, and if so terminated or modified all obligations hereunder shall cease or be reduced in proportion with such modifications, as the case may be.

If any such consolidations terminate prior to the end of the five-year period, the Commonwealth's obligation under this section shall cease.

For the purposes of this statute, "consolidation" includes the reversion of a city to town status *and further includes the consolidation of a city and a county into a consolidated city containing a shire, borough, or such other political subdivision authorized by subdivision 20 of § 15.1-1135, the initial boundaries of which are the same as the existing city which is included in the consolidated city.*

§ 15.1-1135. Optional provisions of consolidation agreement or plan.

Any such consolidation agreement or plan may contain any of the following provisions:

1. That in any territory a part of the consolidated city, or county proposed to be included therein, there shall be no increase in assessments, except for permanent improvements made after the consolidation, for a period of not exceeding five years.

2. That the rate of tax on real property in any such territory shall be lower than in other territory of the consolidated unit for a period of five years, provided that any difference between such rates of taxation shall bear a reasonable relationship to differences in non-revenue-producing governmental services giving land urban character which are furnished in such territories.

3. That in any area specified in such agreement or plan there may, for the purpose of repaying existing indebtedness chargeable to such area prior to consolidation, be levied a special tax on real property for a period not exceeding twenty years, which may be different from and in addition to the general tax rate throughout the entire consolidated city, county, counties, or tier-city, as the case may be.

4. That geographical subdivisions of the consolidated city, to be known as boroughs, may be established, which may be the same as the existing cities, or counties or portions of such counties included in the consolidated city, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section; the names of such boroughs shall be set forth in the consolidation agreement.

5. That geographical subdivisions of the consolidated county or counties, to be known as shires or boroughs, may be established, which shall be the same as and bear the names of the existing counties, towns, communities or portions of counties included in the consolidated county or counties, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section.

6. That in the event of consolidation of such counties and cities into a single county, there may be established geographical subdivisions of such county, to be known as boroughs, which shall be the same as and bear the names of the existing cities and shires, which shall be the same as and bear the names of the existing counties.

7. That in the event of consolidation of such counties and cities into a single county incorporating a tier-city therein, there shall be established geographical and political subdivisions of such county, to be

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60 known as "tier-cities"; such tier-cities shall apply for and receive a charter from the General Assembly  
61 in the same manner as may any municipality and when issued shall thereafter qualify in general law,  
62 mutatis mutandis, as a town with respect to its rights, powers and obligations, and shall have such other  
63 rights, powers and obligations as may be given it by general law or special charter legislation.

64 8. That in the event of the establishment of such shires or boroughs, it shall be the duty of the  
65 Commonwealth Transportation Commissioner and the Director of the Department of Historic Resources  
66 to have suitable monuments or markers erected indicating the limits of such geographical subdivisions  
67 and setting forth the history of each.

68 9. a. That in the event of establishment of a consolidated city, there shall be a new election of  
69 officers therefor whose election and qualification shall terminate the terms of office of their  
70 predecessors; provision may be made for the exclusion from such new election of such elective officers  
71 as is deemed desirable.

72 b. That in the event of the establishment of a consolidated city, the constitutional officers of the  
73 consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective  
74 date of consolidation; that the selection of each constitutional officer for the consolidated city shall be  
75 made by agreement between those persons holding such respective offices, and the other or others, as  
76 the case may be, shall become assistants or chief deputies, upon filing of a certification of such  
77 agreement in a circuit court and approval by the court; that in the event no agreement is reached or no  
78 certification is filed on or before a date stated in the consolidation agreement or plan, the circuit court  
79 shall designate one officer as principal and the other or others, as the case may be, as assistants or chief  
80 deputies; and that in the event of a vacancy in the office of assistant or chief deputy thereby created  
81 during such term, the position shall be abolished. Each such officer shall continue in office, whether as  
82 the principal officer or as chief deputy or assistant, until the first day of January following the next  
83 regularly scheduled election pursuant to §§ 24.1-86 and 24.1-87, whether or not the term to which such  
84 officer was elected may have expired prior to that date. When the effective date of the consolidation  
85 plan is the same as the end of the term of one or more existing constitutional officers for the  
86 consolidating jurisdictions, an election shall be held to select such constitutional officers for the  
87 consolidating jurisdictions for a new term to begin on the effective date of consolidation in order to  
88 implement this provision. Such newly elected officers may or may not become the principal  
89 constitutional officers of the consolidated city under this provision.

90 c. That in the event of the establishment of a consolidated city, the persons holding office as the  
91 superintendents of the school divisions within the consolidating jurisdictions may continue in office at  
92 no less than their salaries in effect at the effective date of consolidation, for the terms to which they  
93 were appointed; that the consolidated city school board shall designate one of such persons as division  
94 superintendent and the other as associate superintendent; that in the event no designation is made on or  
95 before a date stated in the consolidation agreement or plan, the designation shall be made by the circuit  
96 court for the consolidated city; and that in the event of a vacancy in the position of superintendent or  
97 associate superintendent during the term to which appointed, the remaining incumbent shall be the  
98 superintendent and the position of associate superintendent shall be abolished.

99 10. That in the event of the establishment of a consolidated city the tax rate on all property of the  
100 same class within the city shall be uniform; provided that the council shall have power to levy a higher  
101 tax in such areas of the city as desire additional or more complete services of government than are  
102 desired in the city as a whole and, in such case, the proceeds therefrom shall be so segregated as to  
103 enable the same to be expended in the areas in which raised. Provided further that such higher tax rate  
104 shall not be levied for school, police or general government services but only for those services which  
105 prior to consolidation were not offered in the whole of all the consolidated political subdivisions.

106 11. That the aforesaid agreement, when proposing the creation of a consolidated city, may  
107 incorporate, subject to the subsequent approval of the General Assembly, any provisions of any charter  
108 heretofore granted by the General Assembly of Virginia for any of the cities proposing to consolidate or  
109 any proposed consolidated city. It is the intention of this subsection to permit the drafting by the  
110 governing bodies, or the committees acting for and in lieu of the governing bodies under § 15.1-1132, of  
111 a composite charter to be adopted as a part of the consolidation agreement or plan for the proposed  
112 consolidated city. In such composite charter the name of the consolidated city, if agreed upon, shall be  
113 inserted in lieu of the name of the city which may be specified in the original charters from which the  
114 composite charter provisions are taken, or if the name of the consolidated city be left to subsequent  
115 referendum, then the phrase "the consolidated city" shall be so substituted. Any such composite charter  
116 shall be published as provided in § 15.1-1137 as a part of the consolidation agreement.

117 12. That any agreement between any units of government to form a consolidated county may  
118 likewise incorporate provisions of any charter of any such units of government proposing to consolidate  
119 and also may include the provisions of any of the optional forms of county government set forth in this  
120 title. In any form of government approved by the voters hereunder, irrespective of any other provisions  
121 of law, the membership of the governing body shall be as set forth in such consolidation agreement or

amendments thereto. Such agreement or plan when adopted and approved as provided herein shall be the form of the consolidated county and the provisions of subdivision 11 above shall be applicable, mutatis mutandis. The governing body of the consolidated unit shall have the power to make amendments to the consolidated agreement or plan not contrary to general law. No such amendments shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 17 (§ 15.1-833 et seq.) of this title, insofar as such chapter provides for an election or public hearing, notice and advertising.

13. That in any consolidation by a county and all the towns therein into a consolidated county, or in any consolidation of a county and a city into a consolidated county the area of any of such town, towns, city or cities may be designated as a special service district and the delivery of water, sewer and similar type services may be continued; in addition the consolidated county shall have the same powers, rights and duties with respect to the public right-of-way, streets and alleys within such district and receive State Highway Fund allocations as did such town, towns, city or cities prior to consolidation. The roads in the area formerly located solely within the county will continue to be maintained as they were prior to the consolidation, and this subdivision shall not be construed to authorize any allocation from highway funds not previously authorized. The boundaries of such special service district or districts may be altered from time to time by ordinance of the governing body duly adopted after public hearing.

14. That any consolidation agreement may provide for offering to the voters the option of adopting a city or county form of government as well as the option between forms of county governments.

15. That the agreement between a county and the incorporated towns located entirely therein consolidated pursuant to this article may contain provisions for the establishment of special service tax districts wherein a tax may be levied on all classes of property within those shires or boroughs, where, upon the effective date of the consolidation plan, there exists, or the consolidation plan provides for, additional or more complete governmental services than the level of services which are being provided or will, under the plan, be provided in other shires or boroughs, or in the consolidated county as a whole. Additional or more complete governmental services include but are not limited to water supply, sewerage, garbage removal and disposal, heat, lighting, streets, sidewalks and storm drains, fire-fighting equipment and services, and additional law-enforcement services but shall not include separate police forces, additional schools or other basic governmental services to which all citizens are entitled. Any additional revenue produced from any such tax shall be segregated into a separate fund and expended by such consolidated county solely in the shire, borough, or special service tax district wherein such additional tax is assessed. The consolidation plan shall establish the initial boundary lines of such shires or boroughs and the tax rates within each shire or borough. Future adjustments in the boundaries of such shires, boroughs, or special service tax districts shall be made in accordance with § 15.1-18.2, which shall apply to such consolidated county, as well as to the consolidated cities described therein. The governing body of such consolidated county shall have the same power as the city council referred to in such section. Such governing body also shall have the power to tax all sources of revenue which the previous county or incorporated towns therein had prior to such consolidation.

16. That in the event of consolidation of such counties and cities into a single county incorporating a tier-city therein, any rights provided to counties, cities and towns in Chapters 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 may be modified or waived in whole or in part, as set forth in the consolidation agreement or plan, provided that the modification or waiver does not conflict with the Constitution of Virginia and provided that such provision in the consolidation agreement or plan is approved pursuant to the provisions of Chapter 26.1:1 (§ 15.1-1167.1 et seq.) of this title prior to the effective date of consolidation.

17. That the agreement may provide for a subsequent referendum of the voters of all or part of one or more of the consolidating jurisdictions to be held after a favorable referendum on the initial question of consolidating. This subsequent referendum shall take the sense of the qualified voters of an area or areas of the consolidating jurisdictions, as determined in the discretion of the governing bodies of the consolidating jurisdictions, on the question of dividing that area or portion from the newly consolidated jurisdiction and merging or consolidating that area or portion with an adjoining jurisdiction not a part of the newly consolidated jurisdiction. The terms and conditions of this division and merger may be included in said agreement or may be determined by the Commission on Local Government if the affected jurisdictions are unable to agree. The nonagreeing jurisdiction shall have the right to reject the recommendations of the Commission, and not accept said area or portion.

18. That in the event of consolidation of such counties and cities into a single city which completely surrounds another city, the agreement may provide for the subsequent unilateral merger of the surrounded city into the consolidated city at any time. The agreement shall provide that a referendum take the sense of the qualified voters of the surrounded city on the question of whether the surrounded city and the surrounding city shall consolidate.

183 19. That in the event of consolidation of such counties and cities into a single city which completely  
184 surrounds another city, the agreement may provide for the subsequent unilateral merger and conversion  
185 of the surrounded city to a township within the surrounding city at any time. The agreement shall  
186 provide that a referendum take the sense of the qualified voters of the surrounded city on the question  
187 of whether the surrounded city shall convert to a township. The township may, in the discretion of its  
188 council, continue to be called a city and may formally be referred to as ..... city, a Virginia township.  
189 Such township shall have no right to become an independent city, nor to annex or exercise any  
190 extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and  
191 immunities granted towns. The consolidated city's legal relationship with such township shall be  
192 governed by the same laws that govern county-town relationships, except as modified herein.

193 20. *That in the event of consolidation of a county and city into a consolidated city, there may be*  
194 *established a geographical and political subdivision within such consolidated city, to be known as a*  
195 *"shire" or a "borough," or having such other name as may be established in the consolidation plan, the*  
196 *corporate boundaries of which shall be the same as the existing city which is included in the*  
197 *consolidated city. Such political subdivision shall apply for a charter from the General Assembly and,*  
198 *when the charter is issued, shall thereafter have the same rights, powers and obligations as towns*  
199 *exercise in counties, and such other rights, powers and obligations as may be granted by general law or*  
200 *by charter. The consolidation agreement may also include a provision permitting the shire, borough, or*  
201 *other unit of government to annex at regular intervals by the adoption of an ordinance, if the shire,*  
202 *borough, or other political subdivision agrees to renounce permanently any right to become a city. Any*  
203 *such provisions permitting annexation shall provide for the regular and orderly growth of the shire,*  
204 *borough, or other political subdivision in conjunction with the consolidated city and for an equitable*  
205 *sharing of resources and liabilities. In the event the consolidation agreement provides for annexation by*  
206 *ordinance, it shall also include provisions establishing a procedure by which property owners in the*  
207 *area to be annexed may petition the Commission on Local Government for review of the annexation*  
208 *proceedings. The Commission's review shall be limited to whether the shire, borough, or other political*  
209 *subdivision substantially [ ~~compiled~~ complied ] with the procedures and requirements set forth in the*  
210 *consolidation agreement. Upon the filing of such a petition, the Commission may stay the effective date*  
211 *of the annexation pending the outcome of its review. Following the holding of a hearing at which the*  
212 *parties may present evidence, the Commission shall enter an order which shall either affirm the*  
213 *annexation ordinance without change or remand the ordinance for further proceedings to comply with*  
214 *the procedures and the requirements of the consolidation agreement. The order of the Commission shall*  
215 *be final and not subject to further review. The consolidation agreement may further include provisions*  
216 *granting the shire, borough, or other unit of government the right to exercise subdivision regulation and*  
217 *zoning authority within designated areas of the consolidated city lying outside the boundaries of the*  
218 *shire, borough, or other political subdivision, and may also include provisions for representation for*  
219 *residents of such designated areas on the Planning Commission and Board of Zoning Appeals of the*  
220 *shire, borough or other unit of government.*

221 § 15.1-1146.1:2. Powers of a shire, borough, etc.

222 Any city which consolidates with a county into a consolidated city and which shall become a shire,  
223 borough, or other political subdivision within the consolidated city pursuant to subdivision 20 of  
224 § 15.1-1135 shall have, *mutatis mutandis*, all the powers, duties and responsibilities exercised by towns  
225 within counties, unless otherwise specifically provided, together with such additional powers and  
226 responsibilities as may be granted it by general law or charter, provided, however, that notwithstanding  
227 any other provision of law now existing or hereinafter enacted, in the event of consolidation of a county  
228 and city into a consolidated city, neither the consolidated city nor any shire, borough or other political  
229 subdivision of the consolidated city shall have the powers granted to cities and towns under  
230 § 56-265.4:2 for those electric utilities in existence as of the date of this act. Except for those powers  
231 reserved to the shire, borough, or other political subdivision in the consolidation plan, the consolidated  
232 city shall exercise such powers in the shire, borough, or other unit of government as are exercised by  
233 counties in towns. Shires, boroughs, or such other political subdivisions shall receive financial  
234 assistance from the Commonwealth in the same manner and to the same extent as is provided to towns.  
235 Such a shire, borough, or other political subdivision may transfer to the consolidated city all or part of  
236 the revenues it receives, the services it performs, its facilities, other assets, or any portion of its debt as  
237 provided in the consolidation agreement. The consolidated city may transfer to the shire, borough, or  
238 such other political subdivision all or part of the revenues it receives, the services it performs, its  
239 facilities, other assets, or any portion of its debt as provided in the consolidation agreement.

240 § 22.1-57.1:1. Referendum in certain consolidated cities.

241 Notwithstanding the provisions of this article or any other statutory provision, where an existing city  
242 and a county consolidate into a consolidated city and where the county at the time of consolidation is  
243 providing all school services to the existing city by contract pursuant to § 22.1-27 and the voters of the  
244 county have approved direct election of the school board, the consolidation plan or agreement shall

245 *provide for the election of school board members directly by the voters of the consolidated city without*  
246 *the necessity of a further referendum under § 22.1-57.2; in such case, the consolidation plan or*  
247 *agreement shall provide that the members of the initial school board shall be elected from the municipal*  
248 *election districts designated in the consolidation plan or agreement. The provisions of § 22.1-57.3 shall*  
249 *apply in all other respects.*  
250 **2. That an emergency exists and this act is in force from its passage.**

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