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## HOUSE BILL NO. 705

Offered January 22, 1996

A BILL to amend and reenact §§ 15.1-535 and 15.1-540 of the Code of Virginia, relating to tie breakers for the Board of Supervisors.

Patron—Phillips

Referred to Committee on Counties, Cities and Towns

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

**1. That §§ 15.1-535 and 15.1-540 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.1-535. Tie breakers.**

The governing body of each county may designate a tie breaker, ~~whose duty it shall be to at its organizational meeting or at the governing body's next meeting if there is a vacancy caused by an expiration of term of the tie breaker or otherwise. The tie breaker shall~~ cast the deciding vote in case of a tie, as set forth in § 15.1-540. The designation of the tie breaker shall be, in the discretion of the governing body, by: (1) election by the voters of the county from the county at large or (2) appointment by the governing body. *In the event that the governing body does not exercise one of these options, the circuit court shall appoint a temporary tie breaker to serve until the next November election in which a tie breaker shall be elected by the voters from the county at large.* Every tie breaker ~~so~~ appointed by the governing body shall serve for a period of four years from the date of his appointment or election and every tie breaker ~~so~~ elected shall serve the same term as a member of the governing body. No person shall be appointed or elected or serve as tie breaker who is not a resident of the county; who is not qualified to hold office as supervisor or who is an employee or officer of the county. Tie breakers heretofore appointed or elected shall continue in office until the expiration of the respective terms. First appointments or elections pursuant to the provisions of this section, as amended, shall be made to fill vacancies existing on or occurring subsequent to July 1, 1974. Every appointment made pursuant to the provision of this section to fill a vacancy, whether occasioned by the expiration of a term or otherwise, shall be for a period of four years and in the case of election in the same manner as vacancies in the governing body.

**§ 15.1-540. How questions determined.**

All questions submitted to the board for decision shall be determined by a majority of the supervisors voting on any such question either by voice vote or by roll call or by any other method of voting which shall identify the matter to be voted upon, and shall record the individual votes of the members; but in any case in which there shall be a tie vote of the board upon any question when all the members are not present, the question shall be passed by till the next meeting when it shall again be voted upon even though all members are not present; in any case in which there shall be a tie vote on any question after complying with the herein above procedure, the clerk shall record the vote, and immediately notify the tie breaker, elected by the voters or appointed by the governing body *or court* as provided in § 15.1-535, to give the casting vote in case of a tie, if that be practicable, and request his presence at the present meeting of the board; but if that be not practicable then the board may adjourn to a day fixed in the minutes of the board, or in case of a failure to agree on a day, to a day fixed by the clerk and entered by him on the minutes. At the present meeting or on the day named in the minutes the tie breaker shall attend. He shall be entitled to be fully advised as to the matter upon which he is to vote, and if not prepared to cast his vote at the time he may require the clerk to enter an order adjourning the meeting to some future day to be named in the minutes not to exceed thirty days and from time to time he shall have continuances entered until he is ready to vote, not to exceed thirty days. When he casts his vote the clerk shall record his vote and the tie shall be broken, and the question shall be decided as he casts his vote. If a meeting for any reason shall not be held on the day named in the minutes the clerk shall enter on the minute book a day within ten days as a substitute day and duly notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie breaker shall be considered a member of the board for the purpose of counting a quorum for the sole purpose of breaking the tie.

If the board has not provided for the appointment or election of a tie breaker, as authorized by § 15.1-535, any tie vote shall defeat the motion, resolution or issue voted upon.

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

INTRODUCED

HB705