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## HOUSE BILL NO. 856

Offered January 22, 1996

A BILL to amend and reenact § 15.1-1041 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.1-1041.2, relating to referendum requirement prior to city annexation.

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Patrons—Putney and Dudley

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Referred to Committee on Counties, Cities and Towns

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

**1. That § 15.1-1041 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.1-1041.2 as follows:**

§ 15.1-1041. Hearing and decision.

(a) The court shall hear the case upon the evidence introduced as evidence is introduced in civil cases.

(b) The court shall determine the necessity for and expediency of annexation, considering the best interests of the people of the county and the city or town, services to be rendered and needs of the people of the area proposed to be annexed, the best interests of the people in the remaining portion of the county and the best interests of the Commonwealth in promoting strong and viable units of government.

(b1) In considering the best interests, as set out in (b) hereof, the court shall consider to the extent relevant:

(i) The need for urban services in the area proposed for annexation, the level of services provided in the county, city or town, and the ability of such county, city or town to provide services in the area sought to be annexed, including, but not limited to:

(a) Sewerage treatment,

(b) Water,

(c) Solid waste collection and disposal,

(d) Public planning,

(e) Subdivision regulation and zoning,

(f) Crime prevention and detection,

(g) Fire prevention and protection,

(h) Public recreational facilities,

(i) Library facilities,

(j) Curbs, gutters, sidewalks, storm drains,

(k) Street lighting,

(l) Snow removal,

(m) Street maintenance;

(ii) The current relative level of services provided by the county and the city or town;

(iii) The efforts by the county and the city or town to comply with applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, or other state service policies promulgated by the General Assembly;

(iv) The community of interest which may exist between the petitioner, the territory sought to be annexed and its citizens as well as the community of interest that exists between such area and its citizens and the county. The term "community of interest" may include, but not be limited to, the consideration of natural neighborhoods, natural and man-made boundaries, the similarity of needs of the people of the annexing area and the area sought to be annexed;

(v) Any arbitrary prior refusal by the governing body of the petitioner or the county whose territory is sought to be annexed to enter into cooperative agreements providing for joint activities which would have benefited citizens of both political subdivisions; however, the court shall draw no adverse inference from joint activities undertaken and implemented pursuant to cooperative agreements of the parties. It is the purpose of this subsection to encourage adjoining political subdivisions to enter into such cooperative agreements voluntarily, and without apprehension of prejudice;

(vi) The need for the city or town seeking to annex to expand its tax resources, including its real estate and personal property tax base;

(vii) The need for the city or town seeking to annex to obtain land for industrial or commercial use, together with the adverse effect on a county of the loss of areas suitable and developable for industrial or commercial uses; and

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60 (viii) The adverse effect of the loss of tax resources and public facilities on the ability of the county  
61 to provide service to the people in the remaining portion of the county.

62 (c) If a majority of the court is of opinion that annexation is not necessary or expedient, the petition  
63 for annexation shall be dismissed. If a majority of the court is satisfied of the necessity for and  
64 expediency of annexation, it shall determine the terms and conditions upon which annexation is to be  
65 had, and shall enter an order granting the petition. In all cases, the court shall render a written opinion.

66 (d) The order granting the petition shall set forth in detail all such terms and conditions upon which  
67 the petition is granted. *Included in such conditions in the case of a city-initiated annexation shall be a*  
68 *requirement that a referendum be conducted pursuant to §15.1-1041.2 and a majority of those voting in*  
69 *the referendum vote in favor of annexation.* Every annexation order shall be effective at midnight on  
70 December 31 of the year in which issued; or, in the discretion of the court, at midnight on December 31  
71 of the year following the year in which issued; or the court, upon joint petition of the parties, may order  
72 an annexation effective at midnight of any other date or dates. Unless the parties otherwise agree, all  
73 taxes assessed in the territory annexed for the year at the end of which annexation becomes effective  
74 and for all prior years shall be paid to the county.

75 (e) In any proceedings instituted by a city or town, no annexation shall be decreed unless the court is  
76 satisfied that the city or town has substantially complied with the conditions of the last preceding  
77 annexation by such city or town, or that compliance therewith was impossible, or that sufficient time for  
78 compliance has not elapsed.

79 (f) In the event that the court enters an order granting the petition, a copy of the order shall be  
80 certified to the Secretary of the Commonwealth. The Secretary shall immediately transmit a copy of  
81 such order to the State Comptroller for his use in complying with § 4-22.

82 § 15.1-1041.2 *Referendum in area proposed to be annexed by a city.*

83 *In the event that the court enters an order granting a petition for annexation by a city, the court*  
84 *shall condition such grant upon approval of the annexation by the qualified voters in the territory to be*  
85 *annexed. The court shall order the election officials of the county from which the territory is to be*  
86 *annexed to hold a special election in which all qualified voters who reside within the designated*  
87 *territory shall be eligible to vote. The costs of preparing the list of eligible voters and of conducting the*  
88 *special election shall be included in the costs of the annexation proceedings which the court may assess*  
89 *pursuant to § 15.1-1045.*

90 *The court shall order the special election pursuant to § 24.2-684, and the election shall be conducted*  
91 *and the results ascertained and certified as provided therein. The question on the ballot shall be as*  
92 *follows:*

93 *"Shall (brief description of territory to be annexed) be annexed to (name of city)?"*

94 *If a majority of those voting in the election vote in favor of annexation, the order of the court*  
95 *granting the annexation petition shall become effective on the date set by the court. If a majority of*  
96 *those voting vote against the annexation, the court shall enter an order dismissing the motion to annex.*

97 *If the council of the city shall decline to accept an annexation pursuant to § 15.1-1044, the court*  
98 *shall dissolve its order for a special election and no election shall be held.*