

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 345

An Act to amend and reenact § 15.2-3209 of the Code of Virginia, relating to annexation.

[H 2624]

Approved March 23, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-3209 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-3209. Hearing and decision.

The special court shall hear the case upon the evidence introduced as evidence is introduced in civil cases.

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.

Related to the best interests of the people of the county and city or town, the court shall consider to the extent relevant:

1. 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: sewage treatment, water, solid waste collection and disposal, public planning, subdivision regulation and zoning, crime prevention and detection, fire prevention and protection, public recreational facilities, library facilities, curbs, gutters, sidewalks, storm drains, street lighting, snow removal, and street maintenance;

2. The current relative level of services provided by the county and the city or town;

3. 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;

4. 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 manmade boundaries, and the similarity of needs of the people of the annexing area and the area sought to be annexed;

5. 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 localities; 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 subdivision to encourage adjoining localities to enter into such cooperative agreements voluntarily, and without apprehension of prejudice;

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

7. 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~~

8. The adverse effect of the loss of tax resources and public facilities on the ability of the county to provide service to the people in the remaining portion of the county; *and*

9. *The adverse impact on agricultural operations in the area proposed for annexation.*

If a majority of the court is of the opinion that annexation is not necessary or expedient, the petition for annexation shall be dismissed. If a majority of the court is satisfied of the necessity for and expediency of annexation, it shall determine the terms and conditions upon which annexation is to be had, and shall enter an order granting the petition. *The court may in the order awarding annexation of any area, fix terms and conditions, including but not limited to the rights provided in Chapter 4.5 (§ 3.1-22.28 et seq.) of Title 3.1, to protect agricultural operations in the area annexed.* In all cases, the court shall render a written opinion.

The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted. Every annexation order shall be effective on January 1 following the year in which issued or, in the discretion of the court, on the second January 1 following the year in which issued; however, the court, upon joint petition of the parties, may order an annexation effective on any other date. Unless the parties otherwise agree, all taxes assessed in the territory annexed for the year at the end of which annexation becomes effective and for all prior years shall be paid to the county.

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

In the event that the court enters an order granting the petition, a copy of the order shall be certified to the Secretary of the Commonwealth. The Secretary shall immediately transmit a copy of such order to the State Comptroller for his use in complying with § 4.1-117.