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HOUSE BILL NO. 2450

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend and reenact §§ 15.2-102, 15.2-1301, 15.2-2316.2, 15.2-2604, 15.2-3000, 15.2-3201 through 15.2-3207, 15.2-3209, 15.2-3211 through 15.2-3214, 15.2-3217, 15.2-3219, 15.2-3220, 15.2-3223, 15.2-3226, 15.2-3227, 15.2-3229, 15.2-3520, 15.2-3534, 15.2-3548, 15.2-3916, 15.2-4100, 36-132.1, and 58.1-816 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 13 of Title 15.2 an article numbered 4, consisting of a section numbered 15.2-1311; and to repeal §§ 15.2-2632, 15.2-3225 and Chapters 33 (§§ 15.2-3300 through 15.2-3308) and 38 (§§ 15.2-3800 through 15.2-3834) of Title 15.2 of the Code of Virginia, relating to annexation; alternatives to annexation.

Patron—Wilt

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-102, 15.2-1301, 15.2-2316.2, 15.2-2604, 15.2-3000, 15.2-3201 through 15.2-3207, 15.2-3209, 15.2-3211 through 15.2-3214, 15.2-3217, 15.2-3219, 15.2-3220, 15.2-3223, 15.2-3226, 15.2-3227, 15.2-3229, 15.2-3520, 15.2-3534, 15.2-3548, 15.2-3916, 15.2-4100, 36-132.1, and 58.1-816 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 15.2 an article numbered 4, consisting of a section numbered 15.2-1311, as follows:

§ 15.2-102. Definitions.

As used in this title, unless such construction would be inconsistent with the context or manifest intent of the statute:

"Board of supervisors" means the governing body of a county.

"City" *or "independent city"* means any independent incorporated community which became a city as provided by law before noon on the first day of July, nineteen hundred seventy-one, or which has within defined boundaries a population of 5,000 or more and which has become a city as provided by law.

"Constitutional officer" means an officer provided for pursuant to Article VII, § 4 of the Constitution.

"Council" means the governing body of a city or town.

"Councilman" or "member of the council" means a member of the governing body of a city or town.

"County" means any existing county or such unit hereafter created.

"Dependent city" means a former city that has reverted to town status pursuant to § 15.2-4100 et seq.. Such former city may choose to refer to itself as either a town or a dependent city.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as the context may require.

"Locality" or "local government" shall be construed to mean a county, city, or town as the context may require.

"Municipality," "incorporated communities," "municipal corporation," and words or terms of similar import shall be construed to relate only to cities and towns.

"Supervisor" means a member of the board of supervisors of a county.

"Town" means any existing town or an incorporated community within one or more counties which became a town before noon, July one, nineteen hundred seventy-one, as provided by law or which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law.

"Voter" means a qualified voter as defined in § 24.2-101.

§ 15.2-1301. Voluntary economic growth-sharing agreements.

A. Any county, city or town, or combination thereof, may enter voluntarily into an agreement with any other county, city or town, or combination thereof, whereby the locality may agree for any purpose otherwise permitted, including the provision on a multi-jurisdictional basis of one or more public services or facilities or any type of economic development project, to enter into binding fiscal arrangements for fixed time periods, to exceed one year, to share in the benefits of the economic growth of their localities. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.)~~,~~ ~~33~~ ~~(§ 15.2-3300 et seq.)~~, 36 (§ 15.2-3600 et seq.)~~,~~ ~~38~~ ~~(§ 15.2-3800 et seq.)~~, 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). All such agreements, including those that address any issue provided for in Chapter 32~~,~~ ~~33~~, 36~~,~~ ~~38~~, 39, or

41, shall require, at least annually, a report from each locality that is a recipient of funds pursuant to the agreement to each of the other governing bodies of the participating localities that includes (i) the amount of money transferred among the localities pursuant to the agreement and (ii) the uses of such funds by the localities. The parties to any such agreement that has been in effect for at least 10 years as of July 1, 2018, and pursuant to which annual payments exceed $5 million, shall (a) comply with the reporting requirements of this subsection, notwithstanding whether such requirements are contained in the existing agreement and (b) convene an annual meeting to discuss anticipated future plans for economic growth in the localities.

B. The terms and conditions of the revenue, tax base or economic growth-sharing agreement as provided in subsection A shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing which shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality. However, the public hearing shall not take place until the Commission on Local Government has issued its findings in accordance with subsection D. For purposes of this section, "revenue, tax base, and economic growth-sharing agreements" means any agreement authorized by subsection A which obligates any locality to pay another locality all or any portion of designated taxes or other revenues received by that political subdivision, but shall not include any interlocal service agreement.

C. Any revenue, tax base or economic growth-sharing agreement entered into under the provisions of this section that creates a debt pursuant to Article VII, Section 10 (b) of the Constitution of Virginia, shall require the board of supervisors to hold a special election on the question as provided in § 15.2-3401.

D. Revenue, tax base, and economic growth-sharing agreements drafted under the provisions of this chapter shall be submitted to the Commission on Local Government for review as provided in subdivision 4 of § 15.2-2903. However, no such review shall be required for two or more localities entering into an economic growth-sharing agreement pursuant to this section in order to facilitate the reception of grants for qualified companies in such locality pursuant to the Port of Virginia Economic and Infrastructure Development Grant Fund and Program established pursuant to § 62.1-132.3:2.

Article 4.

Local Government Efficiency Analysis Fund.

§ 15.2-1311. Local Government Efficiency Analysis Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Local Government Efficiency Analysis Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of disbursing moneys to eligible local governments for the award of matching grants pursuant to this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Housing and Community Development (Director.)

B. The purpose of the Fund shall be to promote a program to encourage localities to explore consolidation, city reversion, interlocal agreements and other local operational efficiencies that may lead to improved economies of scale and more efficient service delivery. Matching grants from the fund shall be used for the purpose of allowing localities to overcome cost-prohibitive financial barriers in order to investigate, research, and analyze the benefits of such agreements.

C. The Director shall administer the program and shall carry out the purposes of the program set forth in this article. In administering the program, the Director shall set out and publish criteria to be used in determining whether two or more localities are eligible to receive such matching grants. The grants shall be used by localities solely for the purposes set forth in this article. The Director may adopt and amend such criteria for the administration of the program as he deems necessary and appropriate. The Director shall instruct the Comptroller to annually disburse moneys to eligible localities on a first-come, first-served basis.

§ 15.2-2316.2. Localities may provide for transfer of development rights.

A. Pursuant to the provisions of this article, the governing body of any locality by ordinance may, in order to conserve and promote the public health, safety, and general welfare, establish procedures, methods, and standards for the transfer of development rights within its jurisdiction. Any locality adopting or amending any such transfer of development rights ordinance shall give notice and hold a public hearing in accordance with § 15.2-2204 prior to approval by the governing body.

B. In order to implement the provisions of this act, a locality shall adopt an ordinance that shall provide for:

1. The issuance and recordation of the instruments necessary to sever development rights from the sending property, to convey development rights to one or more parties, or to affix development rights to one or more receiving properties. These instruments shall be executed by the property owners of the development rights being transferred, and any lien holders of such property owners. The instruments shall identify the development rights being severed, and the sending properties or the receiving properties, as applicable;

2. Assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner;

3. The severance of transferable development rights from the sending property;

4. The purchase, sale, exchange, or other conveyance of transferable development rights, after severance, and prior to the rights being affixed to a receiving property;

5. A system for monitoring the severance, ownership, assignment, and transfer of transferable development rights;

6. A map or other description of areas designated as sending and receiving areas for the transfer of development rights between properties;

7. The identification of parcels, if any, within a receiving area that are inappropriate as receiving properties;

8. The permitted uses and the maximum increases in density in the receiving area;

9. The minimum acreage of a sending property and the minimum reduction in density of the sending property that may be conveyed in severance or transfer of development rights;

10. The development rights permitted to be attached in the receiving areas shall be equal to or greater than the development rights permitted to be severed from the sending areas;

11. An assessment of the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and its plans to provide necessary utility services within any designated receiving area; and

12. The application to be deemed approved upon the determination of compliance with the ordinance by the agent of the planning commission, or other agent designated by the locality.

C. In order to implement the provisions of this act, a locality may provide in its ordinance for:

1. The purchase of all or part of such development rights, which shall retire the development rights so purchased;

2. The severance of development rights from existing zoned or subdivided properties as otherwise provided in subsection E;

3. The owner of such development rights to make application to the locality for a real estate tax abatement for a period up to 25 years, to compensate the owner of such development rights for the fair market value of all or part of the development rights, which shall retire the number of development rights equal to the amount of the tax abatement, and such abatement is transferable with the property;

4. The owner of a property to request designation by the locality of the owner's property as a "sending property" or a "receiving property";

5. The allowance for residential density to be converted to bonus density on the receiving property by (i) an increase in the residential density on the receiving property or (ii) an increase in the square feet of commercial, industrial, or other uses on the receiving property, which upon conversion shall retire the development rights so converted;

6. The receiving areas to include such urban development areas in the locality established pursuant to § 15.2-2223.1;

7. The sending properties, subsequent to severance of development rights, to generate one or more forms of renewable energy, as defined in § 56-576, subject to the provisions of the local zoning ordinance;

8. The sending properties, subsequent to severance of development rights, to produce agricultural products or forestal products, as defined in § 15.2-4302, and to include parks, campgrounds and related camping facilities; however, for purposes of this subdivision, "campgrounds" does not include use by travel trailers, motor homes, and similar vehicular type structures;

9. The review of an application by the planning commission to determine whether the application complies with the provisions of the ordinance;

10. Such other provisions as the locality deems necessary to aid in the implementation of the provisions of this act;

11. Approval of an application upon the determination of compliance with the ordinance by the agent of the planning commission; and

12. A requirement that development comply with any locality-adopted neighborhood design standards identified in the comprehensive plan for the receiving area in which the development shall occur, provided such design standard was adopted in the comprehensive plan and applied to the receiving area prior to the transfer of the development right.

D. The locality may, by ordinance, designate receiving areas or receiving properties, or add to, supplement, or amend its designations of receiving areas or receiving properties, so long as the development rights permitted to be attached in the receiving areas are equal to or greater than the development rights permitted to be severed in the sending areas.

E. Any proposed severance or transfer of development rights shall only be initiated upon application by the property owners of the sending properties, development rights, or receiving properties as otherwise provided herein.

F. A locality may not require property owners to sever or transfer development rights as a condition of the development of any property.

G. The owner of a property may sever development rights from the sending property, pursuant to the provisions of this act. An application to transfer development rights to one or more receiving properties, for the purpose of affixing such rights thereto, shall only be initiated upon application by the owner of such development rights and the owners of the receiving properties.

H. Development rights severed pursuant to this article shall be interests in real property and shall be considered as such for purposes of conveyance and taxation. Once a deed for transferable development rights, created pursuant to this act, has been recorded in the land records of the office of the circuit court clerk for the locality to reflect the transferable development rights sold, conveyed, or otherwise transferred by the owner of the sending property, the development rights shall vest in the grantee and may be transferred by such grantee to a successor in interest. Nothing herein shall be construed to prevent the owner of the sending property from recording a deed covenant against the sending property severing the development rights on said property, with the owner of the sending property retaining ownership of the severed development rights. Any transfer of the development rights to a property in a receiving area shall be in accordance with the provisions of the ordinance adopted pursuant to this article.

I. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property until the transferable development right is severed from and recorded as a distinct interest in real property, or the transferable development right is used at a receiving property and becomes appurtenant thereto. Once a transferable development right is severed from the sending property, the assessment of the fee interest in the sending property shall reflect any change in the fair market value that results from the inability of the owner of the fee interest to use such property for such uses terminated by the severance of the transferable development right. Upon severance from the sending property and recordation as a distinct interest in real property, the transferable development right shall be assessed at its fair market value on a separate real estate tax bill sent to the owner of said development right as taxable real estate in accordance with Article 1 (§ 58.1-3200 et seq.) of Chapter 32 of Title 58.1. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

J. The owner of a sending property from which development rights are severed shall provide a copy of the instrument, showing the deed book and page number, or instrument or GPIN, to the real estate tax assessor for the locality.

K. Localities, from time to time as the locality designates sending and receiving areas, shall incorporate the map identified in subdivision B 6 into the comprehensive plan.

L. No amendment to the zoning map, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or downzone the uses, or the density of uses permitted in the zoning district applicable to any property to which development rights have been transferred, shall be effective with respect to such property unless there has been mistake, fraud, or a material change in circumstances substantially affecting the public health, safety, or welfare.

M. A county adopting an ordinance pursuant to this article may designate eligible receiving areas in any incorporated town within such county, if the governing body of the town has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

N. Any county and an adjacent city may enter voluntarily into an agreement to permit the county to designate eligible receiving areas in the city if the governing body of the city has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The city council shall designate areas it deems suitable as receiving areas and shall designate the maximum increases in density in each such receiving area. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.),

~~33 (§ 15.2-3300 et seq.)~~, 36 (§ 15.2-3600 et seq.)~~,~~ ~~38 (§ 15.2-3800 et seq.)~~, 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

1. The terms and conditions of the density transfer agreement as provided in this subsection shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing, which shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

2. The governing bodies shall petition a circuit court having jurisdiction in one or more of the localities for an order affirming the proposed agreement. The circuit court shall be limited in its decision to either affirming or denying the 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 circuit 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.

3. The agreement shall not become binding on the localities until affirmed by the court under this subsection. Once approved by the circuit court, the agreement shall also bind future local governing bodies of the localities.

§ 15.2-2604. Powers generally.

Subject to the provisions of Articles 3 (§ ~~15.2-2632~~ *15.2-2633* et seq.) and 4 (§ 15.2-2638 et seq.) of this chapter, any locality may:

1. Acquire, construct, reconstruct, improve, extend, enlarge, equip, maintain, repair and operate any project which is located within or outside the locality;

2. Contract debts for any project, borrow money for any project, and issue its bonds to pay all or any part of the cost of acquiring, constructing, reconstructing, improving, extending, enlarging and equipping any project;

3. Refund any bonds previously issued by the locality or for which the locality is responsible or may assume responsibility for payment;

4. Provide for the rights of the owners of bonds issued by the locality;

5. Secure bonds issued by the locality as permitted by law;

6. Issue bonds to create any self-insurance reserve fund;

7. Issue bonds to pay all or any part of the cost of satisfying a final judgment imposed against the locality (including its local school board) by a court of competent jurisdiction;

8. Acquire in the name of the locality, by purchase, gift or the exercise of the power of eminent domain, land and rights and interests in land, including land under water and riparian rights, and acquire personal property as the governing body of the locality may deem necessary in connection with any project;

9. Enter on any land, water or premises located within or outside the locality for the purpose of making surveys, borings, soundings or examinations in connection with any project; any such entry shall not be deemed a trespass or an entry under any eminent domain proceedings, but the locality shall make reimbursement for any actual damages resulting from the entry;

10. Receive and accept from any federal or state agency grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied for the purposes for which the aid or contributions may be made; and comply with any conditions not inconsistent with the Constitution of Virginia or provision of law imposed by any federal or state agency as a prerequisite to obtaining any grant, including, but not limited to, the execution of any required contracts or arrangements;

11. Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary;

12. Acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

13. Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

14. Do all things necessary or convenient to carry out the powers expressly given in this chapter and to carry out any project;

15. Assess, levy and collect unlimited ad valorem taxes on all property subject to taxation to pay the principal of and premium, if any, and interest on any bonds issued under the provisions of this chapter, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture

or other instrument providing for the issuance of the bonds; and

16. Fix and collect rates, rents, fees and other charges for the services and facilities furnished by, or for the use of, or in connection with any revenue-producing undertaking or undertakings, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds.

§ 15.2-3000. Special court to hear certain cases.

Notwithstanding any contrary provision of law, whenever any matter provided for in Chapters 32 (§ 15.2-3200 et seq.)~~, 33 (§ 15.2-3300 et seq.)~~, 34 (§ 15.2-3400 et seq.), 35 (§ 15.2-3500 et seq.), 36 (§ 15.2-3600 et seq.)~~, 38 (§ 15.2-3800 et seq.)~~, 39, (§ 15.2-3900 et seq.), 40 (§ 15.2-4000 et seq.) and 41 (§ 15.2-4100 et seq.) of this title, is required to be decided by a court, the court, unless a different intent appears from the context, shall be composed of three circuit court judges appointed by the Supreme Court of Virginia. Such special court shall sit without a jury. The three judges shall be chosen from a panel of fifteen judges selected to hear such matters by the Supreme Court. Such judges shall remain on the panel for a period of time determined by the Chief Justice of the Supreme Court unless otherwise provided by law. When any petition or other matter required by the above-stated chapters to be decided by the special court is filed in a circuit court, the chief circuit court judge shall certify the filing to the Supreme Court and request the appointment of three members from the panel to hear the matter. No judge may be appointed to hear a matter involving jurisdictions in his own circuit.

§ 15.2-3201. Restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.

Beginning January 1, 1987, ~~and terminating on the first to occur of (i) July 1, 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169,~~ no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter ~~except a city that filed an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with~~ *With* the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. ~~However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.~~

Beginning January 1, 1988, ~~and terminating on the first to occur of (i) July 1, 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169,~~ no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) ~~or Chapter 33 (§ 15.2-3300 et seq.)~~ requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. ~~However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.~~

§ 15.2-3202. Ordinance for annexation by town; appointment of special court.

The council of any ~~city or~~ town may by an ordinance passed by a recorded affirmative vote of a majority of all the members elected to the council, petition the circuit court for the county in which any territory adjacent to the ~~city or~~ town lies, for the annexation of such territory. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) ~~of this title~~.

The ordinance shall set forth the necessity for or expediency of annexation and shall contain the following detailed information:

1. Metes and bounds and size of area sought;

2. Information, which may be shown on a map annexed to the ordinance, of the area sought to be annexed, indicating generally subdivisions, industrial areas, farm areas, vacant areas and others, together with any other information deemed relevant as to possible future uses of property within the area. If a map is not annexed as part of the ordinance, then such information shall be set forth in the ordinance;

3. A general statement of the terms and conditions upon which annexation is sought, and the provisions planned for the future improvement of the annexed territory, including the provision of public utilities and services therein.

§ 15.2-3203. Petition by voters of adjacent territory, or governing body of adjacent county or town, for annexation; voluntary agreement by governing body to reject annexation.

A. Whenever ~~fifty-one~~ *51* percent of the voters of any territory adjacent to any ~~city~~ ~~or~~ town or ~~fifty-one~~ *51* percent of the owners of real estate in number and land area in a designated area, or the governing body of the county in which such territory is located, or of the town desiring to annex such territory petition the circuit court for the county, stating that it is desirable that such territory be annexed to the ~~city~~ ~~or~~ town and setting forth the metes and bounds thereof, a copy of such petition shall be served on the ~~city~~ ~~or~~ town council, and published in the manner prescribed in § 15.2-3204. The case shall, except as otherwise provided in this chapter, proceed in all respects as though instituted in the manner prescribed in § 15.2-3202; however, the special court shall not increase the area of the territory described in the petition.

B. Any ~~city~~ ~~or~~ town to which the annexation is proposed may reject such annexation by ordinance, duly adopted by a majority of the elected members of the governing body of the ~~city~~ ~~or~~ town, if such ordinance is adopted either prior to the pretrial conference provided for in § 15.2-3207 or within the time limits set forth in § 15.2-3213.

C. Any county~~,~~ ~~city~~ or town may enter into a voluntary agreement with any other county~~,~~ ~~city~~ or town, or combination thereof, whereby such ~~city~~ ~~or~~ town agrees to reject any annexations initiated under subsection A. Such agreement may be for such period of time as specified by the parties to such agreement with respect to all or a portion of the county.

§ 15.2-3204. Notice of motion; service and publication.

At least thirty days before instituting any annexation proceeding under this chapter, a ~~city~~ ~~or~~ town shall serve notice and a certified copy of the ordinance on the attorney for the Commonwealth, or on the county attorney, if there is one, and on the chairman of the governing body of the county wherein such territory lies that it will, on a given day, petition the circuit court to grant the annexation requested in the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the ~~city~~ ~~or~~ town where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in some newspaper published in such ~~city~~ ~~or~~ town, and when there is no newspaper published therein, then in a newspaper having general circulation in the county whose territory is affected. The proof of service or certificate of service of the notice and ordinance shall be returned after service to the clerk of the circuit court. Certification from the owner, editor or manager of the newspaper publishing the notice and ordinance or descriptive summary shall be proof of publication.

§ 15.2-3205. Additional parties.

A. In any proceedings hereunder any qualified voters or property owners in the territory proposed to be annexed or any adjoining ~~city~~ ~~or~~ town may, by petition, become parties to such proceeding as provided in subsection B hereof. Any county whose territory is affected by the proceedings, or any ~~city~~, town or persons affected thereby, may appear and shall be made parties defendant to the case, and be represented by counsel.

B. The special court shall by order, fix a time within which such additional parties not served may become defendants to such proceeding, and thereafter, no such petition shall be received, except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper of general circulation in the ~~city~~ ~~or~~ town seeking the territory and in the territory sought to be annexed.

C. The cost of such publication shall be paid by the petitioner or applicant.

§ 15.2-3206. Conflicting petitions for same territory; petition seeking territory lying in two or more counties; procedure.

A. When proceedings for the annexation of territory to a ~~city~~ ~~or~~ town are pending and a petition is filed seeking the annexation of the same territory or a portion thereof to another ~~city~~ ~~or~~ town the case shall be heard by the court in which the original proceedings are pending. The court shall consolidate the cases, hear them together, and make such decision as is just, taking into consideration the interests of all parties to each case.

B. When the territory sought by a ~~city~~ ~~or~~ town lies in two or more counties, all such counties shall be made parties defendant to the case. The motion or petition shall be addressed to the circuit court for the county in which the larger part of the territory is located. The provisions of this article shall apply,

mutatis, mutandis, to any such proceedings.

§ 15.2-3207. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it, or in its discretion before a single judge for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values as determined by the State Department of Taxation in the area sought to be annexed, ~~city or~~ town and county, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. Tax rate for the five years next preceding in the area sought, including any sanitary district therein, and in the ~~city or~~ town;

c. School population and school enrollment in the county, in the area sought, and in the ~~city or~~ town, as shown by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction;

4. Estimated population of the county, the area sought and the ~~city or~~ town;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or judge as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

§ 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 man-made 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;

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 3 (§ 3.2-300 et seq.) of Title 3.2, 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.

§ 15.2-3211. Powers of court and rules of decision; terms and conditions.

The special court, in making its decision, shall balance the equities in the case, shall enter an order setting forth what it deems fair and reasonable terms and conditions, and shall direct the annexation in conformity therewith. It shall have power to:

1. Determine the metes and bounds of the territory to be annexed, and may include a greater or smaller area than that described in the ordinance or petition; the court shall so draw the lines of annexation as to have a reasonably compact body of land ~~and so that no land shall be taken into the city which is not adapted to city improvements or which the city will not need in the reasonably near future for development, unless necessarily embraced in such compact body of land~~;

2. Require the assumption by the ~~city or~~ town of a just proportion of any existing debt of the county or any district therein;

~~3. Require the payment by the city of a sum to be determined by the court, payable on the effective date of annexation, to compensate the county for the value of public improvements, including but not limited to the paving of public roads and streets, the construction of sidewalks thereon, the installation of water mains, or sewers, garbage disposal systems, fire protection facilities, bridges, public schools and equipment thereof, or any other permanent public improvements owned and maintained by the county at the time of annexation; and further to compensate the county, in not more than five annual installments, for the prospective loss of net tax revenues during the next five years, to such extent as the court in its discretion may determine, because of the annexation of taxable values to the city;~~

~~4.~~ *3.* Require the payment by a town of a sum to be determined by the court, payable on the effective date of annexation to compensate the county for any such public improvement which becomes the property of the town by annexation; ~~the order may provide that if, within five years after the order, such town becomes a city, it shall, from and after it becomes a city, make such payments as are provided for in subdivision 3 for a period not to exceed five years from the date of such order;~~

~~5.~~ *4.* In lieu of providing for compensation of the county for any public improvement, provide that any such improvement shall remain the property of the county, or provide for joint use thereof by the county and the ~~city or~~ town under such conditions as the court may prescribe with the consent of the affected localities;

~~6. Prescribe what capital outlays shall be made by the city in the area after annexation; the court shall require of the city the provision of any capital improvements which in its judgment are essential to meet the needs of the annexed area and to bring the same up to a standard equal to that of the remainder of the city; and the court may, in its discretion, require as a condition of annexation the provision of capital improvements in addition to those specified in the annexation ordinance when the same are required to meet the needs of the area annexed;~~

~~7.~~ *5.* Require the payment by the ~~city or~~ town to any common carrier of passengers by motor bus, who may become a party to the annexation proceeding, of a sum to be determined by the court to compensate such carrier for any loss or damage such carrier may suffer from the effects of the annexation order upon its operations. However, the ~~city or~~ town may elect to permit the carrier to continue to operate within the annexed area for such period of time, to be determined by the court, as

will permit the carrier to liquidate and recover its investment through depreciation.

§ 15.2-3212. Determination of value of public improvements.

In determining the value of any public improvement for the purposes set forth in § 15.2-3211 the special court shall take into consideration the original cost thereof less depreciation, reproduction cost at the time of annexation less depreciation, as well as present value.

The ~~city or~~ town shall receive credit, upon a basis to be determined by the court, for any sums it may have contributed to such public improvement and may in the discretion of the court be allowed credit for any portion of the cost thereof contributed by any federal, state or other agency and not borne by the county. When such improvements consist of a school financed in part from county funds and in part from a state grant, the ~~city or~~ town shall receive such credit only upon that portion of the cost paid for by the state grant and only then upon the ratio that children residing in the area annexed and enrolled in such school therein bears to the total attendance of school children in the county.

The governing body of the county or any town therein, portions of which are proposed to be annexed, shall not between the entry of the decree of annexation and the date when the same becomes effective, make or contract for any permanent public improvements, to be paid for by the ~~city or~~ town seeking annexation, without the consent of the corporate authorities of the ~~city or~~ town and the supervision of the official thereof charged with making similar public improvements within the ~~city or~~ town.

§ 15.2-3213. Declining to accept annexation on terms and conditions imposed by court.

In any annexation proceedings instituted by a ~~city or~~ town, the council thereof may, subject to the approval of the special court in which the case is pending, and prior to ~~twenty-one~~ *21* days after entry of an annexation order, or within ~~twenty-one~~ *21* days after denial of a petition for appeal or within ~~twenty-one~~ *21* days after the entry of the mandate in an appeal which has been granted, by ordinance duly adopted decline to accept annexation on the terms and conditions imposed by such court. In such case the court shall enter an order dismissing the motion to annex, and shall direct the payment of the entire costs of the proceedings by the ~~city or~~ town, including reimbursement of the county of costs incurred by it in defending the suit, including such reasonable ~~attorneys'~~ *attorney* fees, engineering fees, witness fees, and other costs as such court shall determine and allow.

§ 15.2-3214. Costs.

The costs in annexation proceedings shall be paid by the locality instituting the proceedings and shall be the same as in other civil cases; ~~however, in proceedings instituted by a town,~~ in assessing the costs, the special court shall consider the extent to which county revenues are derived from within the town, the relative financial abilities of the parties, and the relative merits of the case. The costs shall include the per diem and expenses of the court reporter, if any, and, in the discretion of the court, a reasonable allowance to the court for secretarial services in connection with the preparation of the written opinion. If the proceedings are instituted otherwise than by a ~~city,~~ town or county, such costs shall be paid as the court directs considering the relative merits of the case.

On appeal, the appellate court shall determine by whom the appellate costs shall be paid.

§ 15.2-3217. Court granting annexation to exist for ten years.

The special court shall not be dissolved after rendering a decision granting any motion or petition for annexation, but shall remain in existence for a period of ten years from the effective date of any annexation order entered, or from the date of any decision of the Supreme Court affirming such an order. Vacancies occurring in the court during such ten-year period shall be filled as provided in § 15.2-3004.

The court may be reconvened at any time during the ten-year period on its own motion, or on motion of the governing body of the county, or of the ~~city or~~ town, or on petition of not less than fifty registered voters or property owners in the area annexed; however, if the area annexed contains fewer than 100 registered voters or property owners, a majority of such registered voters or property owners may petition for the reconvening of the court.

The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which annexation was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award attorneys' fees, and court and other reasonable costs to the party or parties on whose motion the court is reconvened.

Any such action of the court shall be subject to review by the Supreme Court in the same manner as is provided with respect to the original decision of the court.

§ 15.2-3219. Reduced taxation on real estate in territory added to corporate limits.

The council of any ~~city or~~ town to which territory has been added may, by ordinance, allow a lower rate of taxation to be imposed for a period not to exceed ten years after the effective date of the annexation upon the real estate or any portion thus added to its corporate limits, than is imposed on similar property within its limits at the time such territory was added.

Such differences in the rate of taxation hereafter shall be established annually and shall bear a reasonable relationship to differences between nonrevenue-producing governmental services giving land

urban character which are furnished in the area added as compared to other areas in the ~~city or~~ town.

§ 15.2-3220. Mandamus and prohibition.

Mandamus and prohibition shall lie from the Supreme Court or any circuit court to compel a ~~city or~~ town to carry out the provisions of this article or to forbid any violation of the same.

§ 15.2-3223. What order and proceedings clerk to certify, and where same shall be recorded; fees.

The clerk of the court wherein an order is entered for the annexation of territory shall make and certify copies of so much of the order and proceedings as shall show the authorization of the transfer of territory from the county or town to the ~~city or~~ town, as the case may be. He shall transmit one copy, along with a full description of the territory so annexed, to the county clerk of the county whose territory is affected, who shall forthwith record the same in the name of the ~~city or~~ town to which the territory is annexed~~, and one copy to the clerk of the court of such city in which deeds are recorded, who shall likewise record and index the same~~. The fees of the clerk for such recordation shall be the same as for recording a deed and such fees, as well as the fees of the clerk for making the copies aforesaid, shall be paid by the ~~city or~~ town.

§ 15.2-3226. Redistricting and elections in town following annexation; registration and transfer of registration of voters in annexed territory.

A. Whenever the boundaries of a ~~city or~~ town, which elects its council by wards or districts, have been expanded through annexation, subject to the provisions of § 24.2-304.1, the council of the ~~city or~~ town shall redistrict the municipality into wards or districts, change the boundaries of existing wards or districts, or increase or diminish the number of wards or districts to incorporate the additional territory.

B. Notwithstanding the provisions of § 24.2-312, there shall be an election for members of council on the first Tuesday in May following the effective date of annexation for terms to commence on July 1 following the election; however, upon the approval of the governing bodies affected and the special court, such election may be on the Tuesday after the first Monday in November following the effective date of annexation for terms to commence on January 1 following the election. 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 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. However, no such election shall be held as a result of an annexation instituted under § 15.2-3202 or § 15.2-3203, unless the ~~city or~~ town increases its population by more than five percent due to the annexation.

C. The registration records of voters residing in the annexed areas shall be transferred, and the appropriate notice given, in accordance with § 24.2-114. Any person residing in the annexed 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 election of the county.

§ 15.2-3227. Annexation proceedings final for ten years.

Except by mutual agreement of the governing bodies affected, no ~~city or~~ town, having instituted proceedings to annex territory of a county, shall again seek to annex territory of such county within the ten years next succeeding the effective date of annexation in any proceeding under this article or previous acts. In the event annexation is denied, such prohibition shall begin with the date of the final order of the court denying annexation or, in the case of an appeal to the Supreme Court, with the date of the final order of the Supreme Court. However, a ~~city or~~ town moving to dismiss the proceedings before a hearing on its merits may file a new petition five years after the filing of the petition in the prior suit. ~~No county shall, except with the consent of its governing body, be made defendant in any annexation proceeding brought by any city within such ten-year period.~~

~~Notwithstanding the foregoing provisions, a city shall have the right to file and maintain an annexation proceeding against any county against which it has not filed such a proceeding during the preceding thirteen years.~~

The provisions of this section shall not apply to any petition for annexation brought by a ~~city or~~ town, within such ten-year period, if the previous petition was dismissed due to a procedural defect, lack of jurisdiction, or any defense other than the merits of the case. The provisions of this section shall not apply to a ~~city or~~ town which institutes an annexation proceeding by filing notice with the Commission on Local Government but which subsequently fails to petition the court to grant such annexation. In that event, however, the ~~city or~~ town shall not again institute proceedings for annexation against the county for at least two years after the date the Commission renders its final report on the initial proceeding.

~~This section shall also apply to any city which was a town at the time of the filing of such petition.~~

§ 15.2-3229. Annexation of whole town.

The provisions of this article shall apply to the annexation by a ~~city or~~ town of an adjoining town. No part of a town shall be annexed unless the whole town is annexed. The annexing ~~city or~~ town shall assume all the indebtedness of the town annexed, and shall own all the corporate property, franchises

and rights thereof.

§ 15.2-3520. Counties, cities and towns specified; alternative consolidations.

A. By complying with the requirements specified in this article, any one or more counties or cities having a common boundary, or any county and all incorporated towns located entirely therein, may consolidate into a single county or city; however, no consolidation instituted under the provisions of this article shall result in the creation of consolidated cities, unless such proposed consolidation is reviewed by the Commission on Local Government and a special court established pursuant to § 15.2-3522 and they meet the criteria set out in subsection A of § 15.2-3526.

B. The term "incorporated towns" as used in this article means only those incorporated towns ~~which~~ *that* have held municipal elections in the ~~ten~~ *10* years preceding the date of the filing of a petition for a referendum pursuant to § 15.2-3529.

C. If two or more like units of local government propose to consolidate into a consolidated like unit of local government, they shall do so in accordance with the provisions of Article 1 ~~of this chapter~~ *(§ 15.2-3500 et seq.)*.

D. This article applies to the (i) consolidation of unlike units of local governments such as a county and a city joining to form either a county or city; (ii) consolidation of like units of local governments into an unlike unit of local government such as a county and a county joining to form a city; or (iii) other combinations provided for herein.

E. Prior to complying with the provisions of this article, a locality undertaking a consolidation may petition the judge of a circuit court having jurisdiction over any of the localities proposing to consolidate asking that an advisory referendum on the question of consolidation of the localities be held at the time of the next general election. The regular election officers, at the time designated in the order authorizing the vote, shall open the polls at the various voting places in their respective localities and conduct the election in such manner as is provided by general law for other elections insofar as the same is applicable. The ballots for each county, including the towns therein, and for each city shall be prepared by the electoral boards thereof and distributed to the various election precincts thereof as provided by law. The ballots used shall be printed and shall contain the following:

"Shall..... (here insert the names of localities proposing to consolidate) enter into an agreement to consolidate pursuant to authority granted by the Code of Virginia?

[ ] Yes

[ ] No"

Notwithstanding the provisions of § 15.2-3531, if a majority of voters in a locality vote no in the advisory referendum, the governing body of that locality may decline to go forward with the consolidation agreement process.

§ 15.2-3534. Optional provisions of consolidation agreement.

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

1. In any territory that will be a part of the consolidated city there shall be no increase in assessments, except for permanent improvements made after the consolidation, for a period not exceeding five years.

2. 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 nonrevenue-producing governmental services giving land urban character which are furnished in such territories.

3. In any area specified in such agreement, for the purpose of repaying existing indebtedness chargeable to such area prior to consolidation, there may 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 county or counties, city or cities, or tier-city, as the case may be.

4. Geographical subdivisions of the consolidated city, to be known as boroughs, may be established, which may be the same as the existing (i) cities, (ii) counties, or (iii) portions of such counties, which are 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. Geographical subdivisions of the consolidated county or counties, to be known as shires, may be established, which shall be the same as and bear the names of the existing counties, towns, communities, or portions of counties, which are 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. 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 shires, which shall be the same as and bear the names of the existing cities and counties.

7. 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 known as "tier-cities"; such tier-cities shall apply for and may receive a charter from the General

Assembly in the same manner as may any municipality and when issued shall thereafter qualify in general law, mutatis mutandis, as a town with respect to its rights, powers and obligations, and shall have such other rights, powers and obligations as may be given it by law, general or special.

8. In the event of the establishment of such shires or boroughs, it shall be the duty of the Commissioner of Highways and the Director of the Department of Historic Resources to have suitable monuments or markers erected indicating the limits of such geographical subdivisions and setting forth the history of each.

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

b. In the event of the establishment of a consolidated city, the constitutional officers of the consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective date of consolidation; the selection of each constitutional officer for the consolidated city shall be made by agreement between those persons holding such respective offices, and the other or others, as the case may be, shall become assistants or chief deputies, upon filing of a certification of such agreement in a circuit court and approval by the court; in the event no agreement is reached or no certification is filed on or before a date stated in the consolidation agreement, the circuit court shall designate one officer as principal and the other or others, as the case may be, as assistants or chief deputies; and in the event of a vacancy in the office of assistant or chief deputy thereby created during such term, the position shall be abolished. Each such officer shall continue in office, whether as the principal officer or as chief deputy or assistant, until January 1 following the next regularly scheduled election pursuant to § 24.2-217, whether or not the term to which such officer was elected may have expired prior to that date. When the effective date of the consolidation plan is the same as the end of the term of one or more existing constitutional officers for the consolidating jurisdictions, an election shall be held to elect such constitutional officers for the consolidating jurisdictions for a new term to begin on the effective date of consolidation. Such newly elected officers may or may not become the principal constitutional officers of the consolidated city under this provision.

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

10. In the event of the establishment of a consolidated city, the tax rate on all property of the same class within the city shall be uniform. However, the council shall have power to levy a higher tax in such areas of the city which desire additional or more complete services of government than are desired in the city as a whole, and, in such case, the proceeds therefrom shall be so segregated as to enable the same to be expended in the areas in which raised; such higher tax rate shall not be levied for school, police or general government services but only for those services which prior to consolidation were not offered in the whole of all of the consolidated localities.

11. The agreement, when proposing the creation of a consolidated city, may incorporate in a proposed charter, subject to the subsequent approval of the General Assembly, any provisions of any charter heretofore granted by the General Assembly for any of the localities proposing to consolidate. It is the intention of this subsection to permit the drafting by the governing bodies, or the committees acting for and in lieu of the governing bodies under § 15.2-3531, of a charter to be adopted as a part of the consolidation agreement for the proposed consolidated city. In such charter the name of the consolidated city, if agreed upon, shall be inserted in lieu of the name of the city which may be specified in the original charters from which the provisions are taken, or if the name of the consolidated city is left to subsequent referendum, then the phrase "the consolidated city" shall be substituted. Any such charter shall be published as provided in § 15.2-3537 as a part of the consolidation agreement.

Any agreement between any localities to form a consolidated city when adopted and approved as provided herein, together with the charter, shall be the form of the consolidated city. The governing body of the consolidated city shall have the power to make amendments to the consolidation agreement 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 2 (§ 15.2-200 et seq.).

12. Any agreement between any localities to form a consolidated county may likewise incorporate

provisions of any charter of any such localities proposing to consolidate and also may include the provisions of any of the optional forms of county government set forth in this title. In any form of government approved by the voters hereunder, irrespective of any other provisions of law, the initial membership of the governing body shall be as set forth in such consolidation agreement. Such agreement when adopted and approved as provided herein shall be the form of the consolidated county, and the provisions of the first paragraph of subdivision 11 above shall be applicable, mutatis mutandis. The governing body of the consolidated county shall have the power to make amendments to the consolidation agreement not contrary to general law. No such amendments, excluding membership of the governing body, shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

13. 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 or 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. The consolidated county shall have the same powers, rights and duties with respect to the public rights-of-way, streets and alleys within such district and receive State Highway Fund allocations as did such town or towns, city or cities prior to consolidation. The roads in the area formerly located solely within the county shall 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. 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. 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, where, upon the effective date of the consolidation agreement, there exists, or the consolidation agreement provides for, additional or more complete governmental services than the level of services which are being provided or will, under the agreement, be provided in other shires, 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 or special service tax district wherein such additional tax is assessed. The consolidation agreement shall establish the initial boundary lines of the shires and the tax rates within each shire. Future adjustments in the boundaries of the shires or special service tax districts shall be made in accordance with § 15.2-2401, which shall apply to the consolidated county as it does to the consolidated cities described therein. The governing body of the 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. In the event of consolidation of a county and a city into a single county incorporating a tier-city therein, any rights provided to counties, cities and towns in Chapters 32 (§ 15.2-3200 et seq.)~~,~~ ~~33 (§ 15.2-3300 et seq.)~~, 36 (§ 15.2-3600 et seq.)~~,~~ ~~38 (§ 15.2-3800 et seq.)~~, and 39 (§ 15.2-3900 et seq.) may be modified or waived in whole or in part, as set forth in the consolidation agreement, provided that the modification or waiver does not conflict with the Constitution of Virginia and provided that such provision in the consolidation agreement is approved pursuant to the provisions of Chapter 34 (§ 15.2-3400 et seq.) prior to the effective date of consolidation.

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

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

consolidated city shall consolidate.

19. 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 consolidation and conversion of the surrounded city to a township within the surrounding consolidated city at any time. The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the question of whether such city shall convert to a township. The township may, in the discretion of its council, continue to be called a city and may formally be referred to as _____ city, a Virginia township. Such township shall have no right to become an independent city, nor to annex or exercise any extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and immunities granted towns. The consolidated city's legal relationship with such township shall be governed by the same laws that govern county-town relationships, except as modified herein.

§ 15.2-3548. Effect on town charter.

A. Notwithstanding any other provision of this article, any town located within or partially within a county proposing to consolidate with another county or city, or combination thereof, into a consolidated county and which is not a party to the consolidation agreement, shall continue as a town in the consolidated county.

B. Notwithstanding any other provision of this article, in the event a proposed consolidation of a county with another county or city into a consolidated city is approved by the voters as provided in § 15.2-3540, any town located within or partially within a county and not a party to the consolidation agreement shall continue as a township. The charter of such town shall become the charter of the township. Such townships established pursuant to this subsection shall continue to exercise such powers and elect such officers as the township charter may authorize and shall exercise such other powers as towns exercise under general law. However, no township shall exercise the powers granted towns by ~~Chapter 38 (§ 15.2-3800 et seq.) or by~~ Article 1 (§ 15.2-3200 et seq.) of Chapter 32, or any extraterritorial authority granted towns by Chapter 22 (§ 15.2-2200 et seq.), except that a township created as a result of a consolidation of a city and county subsequent to July 1, 2011, may institute proceedings for annexation pursuant to Article 1 (§ 15.2-3200 et seq.) of Chapter 32 if the consolidation agreement permits a township to exercise such authority. The consolidated city shall exercise such powers in the township as were exercised by the county in the town prior to consolidation. Townships shall receive from the Commonwealth financial assistance in the same manner and to the same extent as is provided towns. A township may transfer all or part of the revenues it receives, the services it performs, its facilities, other assets, and debts to the consolidated city by agreement of the governing bodies.

§ 15.2-3916. Creation of townships; effect on town charters.

~~A.~~ Each town located within any county which becomes a city pursuant to the provisions of this chapter shall automatically continue as a township within the city, and the charter of each such town shall become the charter of the township with the law governing the relationship of the town to the county continuing in effect. Such townships established pursuant to this ~~subsection~~ *section* shall continue to exercise such powers and elect such officers as the township charter may authorize and such other powers as the former town previously exercised under general law. However, no township shall exercise the authority granted towns by ~~Chapter 38 (§ 15.2-3800 et seq.) of this title or by~~ Article 1 (§ 15.2-3200 et seq.) of Chapter 32 ~~of this title~~, or any extraterritorial authority granted towns by Chapter 22 (§ 15.2-2200 et seq.) ~~of this title~~. Townships shall receive from the Commonwealth financial assistance in the same manner and to the same extent as is provided towns. However, a township may transfer all or part of the revenues it receives, the services it performs, its facilities, other assets, and debts to the city by agreement of the governing bodies.

~~B. Notwithstanding the provisions of subsection A of this section, any town which in 1979 possessed a population in excess of 5,000 persons and was situated within a county possessing a population of 20,000 or more persons and a density of population of 300 or more persons per square mile, or a minimum population of 50,000 persons and a density of population of at least 140 persons per square mile, based on the United States census, on population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision, shall retain as a township the right to obtain city status. Where such township seeks to become a city under the authority granted by this subsection and in accordance with § 15.2-3801 et seq., the special court shall be limited in its review, as provided in § 15.2-3809, to a determination of the township's population and population density. Where the court determines that such township has a population of at least 5,000 persons and a density of at least 200 persons per square mile, it shall enter an order granting the township city status.~~

§ 15.2-4100. City may change to town status.

A city may change to town status in accordance with the provisions of this chapter. *Such former city may choose to refer to itself as either a town or a dependent city.*

§ 36-132.1. Commission on Local Government.

The Department shall include the Commission on Local Government, which shall exercise the powers and duties described in §§ 15.2-1301 and 15.2-2303.2 and Chapters 29 (§ 15.2-2900 et seq.), 32 (§ 15.2-3200 et seq.)~~,~~ ~~33 (§ 15.2-3300 et seq.)~~, 34 (§ 15.2-3400 et seq.), 35 (§ 15.2-3500 et seq.), 36 (§ 15.2-3600 et seq.)~~,~~ ~~38 (§ 15.2-3800 et seq.)~~, 39 (§ 15.2-3900 et seq.), 40 (§ 15.2-4000 et seq.), and 41 (§ 15.2-4100 et seq.) of Title 15.2 and § 30-19.03.

§ 58.1-816. Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, twenty million dollars of the taxes imposed under §§ 58.1-801 through 58.1-809 which are actually paid into the state treasury, shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsection B of this section. Effective July 1, 1994, such annual distribution shall increase to forty million dollars.

B. Subject to any transfers required under §§ 33.2-2400 and 58.1-816.1, the share of the state taxes distributable under this section among the counties and cities shall be apportioned and distributed quarterly to each county or city by the Comptroller by multiplying the amount to be distributed by a fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the state treasury. All distributions pursuant to this section shall be made on a quarterly basis within thirty days of the end of the quarter. Such quarterly distribution shall equal ten million dollars. Each clerk of the court shall certify to the Comptroller, within fifteen days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in such county or city.

C. All moneys distributed to counties and cities pursuant to this section shall be used for (i) transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance and financing of transportation facilities, or (ii) public education.

As used in this section, the term "transportation facilities" shall include all transportation-related facilities including, but not limited to, all highway systems, public transportation or mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

D. If any revenues distributed to a county or city under subsection C of this section are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission or authority, such transportation facilities shall be constructed, operated, administered, improved and maintained in accordance with laws, rules, regulations, policies and procedures governing such state agency, board, commission or authority; however, in the event these revenues, or a portion thereof, are expended for improving or constructing highways in a county which is subject to the provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

E. In the case of any distribution to a county or city in which an office sharing agreement pursuant to §§ 15.2-1637 ~~and 15.2-3822~~ is in effect, the Comptroller shall divide the distribution among the office sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall certify to the Comptroller, within fifteen days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded on behalf of each county and city.

2. That § 15.2-2632, 15.2-3225 and Chapters 33 (§§ 15.2-3300 through 15.2-3308) and 38 (§§ 15.2-3800 through 15.2-3834) of Title 15.2 of the Code of Virginia are repealed.