# Commission on Local Government
# Commonwealth of Virginia

## ALTERNATIVE APPROACHES TO INTERLOCAL CONCERNS

(Incorporates changes through 2006 General Assembly session)

### 1. Economic Growth-Sharing Agreements

(a) **For Settlement of Interlocal Boundary Change/Transition Issues--**Localities are authorized to include in interlocal agreements settling annexation or other boundary change or transition issues provisions establishing long-term economic growth-sharing arrangements. Such agreements require review by the Commission on Local Government and approval by a special three-judge court before they may be implemented. (Code, §§15.2-3400 and 15.2-3401)

Examples: City of Charlottesville/Albemarle County--each jurisdiction annually contributes $0.37 for each $100 of its assessed real property values to an economic growth sharing fund. Distribution of the fund to the localities is based on their respective populations and true tax rates. As a condition of this revenue-sharing agreement, the City has agreed to relinquish its authority to annex County territory.

City of Franklin/Isle of Wight County--In exchange for the City's agreement not to annex a specified portion of the County, Isle of Wight County has agreed to share a portion of the tax revenues from that area with the City. Through 1995, the County shared 20% of the revenues. In subsequent years, the percentage to be shared is to fluctuate between 17% and 23%, depending upon the relative fiscal condition of the two jurisdictions.

(b) **For Use Outside the Context of Boundary Change/Transition Issues--**Localities are also authorized to enter into voluntary economic growth-sharing agreements for purposes other than the settlement of a boundary change/transition issue, subject only to an advisory review by the Commission on Local Government. (Code, §15.2-1301)

(c) **For Use in Specified Planning Districts--**Any three or more localities within Planning Districts 4, 5, 13, 14 and 19, at least two of which must be counties or cities, and two or more localities in Planning Districts 2, 3, 10, 11, and 12, at least one of which must be a county or a city, are authorized to enter into a revenue and economic growth-sharing agreement with respect to revenues generated by an industrial park owned by a regional industrial facility authority. Such regional industrial facility authorities and revenue-sharing may be established pursuant solely to action by the governing bodies of the participating localities. (Code, §15.2-6400 et seq.)

Example: Bland, Craig, Giles, Montgomery, Roanoke, Pulaski, and Wythe Counties; the Cities of Roanoke, Radford, and Salem; and the Towns of Christiansburg, Dublin, Narrows, Pearisburg, and Pulaski created Virginia's first Regional Industrial Facility Authority in September 1998 to share the cost of developing regional industrial parks in Pulaski and Wythe Counties and to share the revenues from those facilities.

### 2. Sharing of Constitutional Officers

Any two or more counties and cities may share one or more of the constitutional officers (e.g., sheriff, Commonwealth's attorney) upon approval of the electorate in each jurisdiction by referendum. The question of sharing local constitutional officers can only be placed on the ballot by a petition signed by a number of voters equal to 15% of the votes cast in the last gubernatorial election within the locality. (Code, §15.2-1602)

**3. Sharing of Ministerial and Executive Officers**

Any two or more counties may jointly appoint and employ ministerial and executive officers upon approval of such an arrangement by the county governing bodies and, subsequently, by the people in a referendum. Similarly, counties and towns within such counties may jointly appoint and employ ministerial and executive officers. (Code, §§15.2-1513 – 15.2-1516)

**4. Joint Exercise of Powers**

Any county, city, or town may enter into agreements with any other political subdivision in this State or any other state for the joint exercise of any power, privilege, or authority which it possesses. (Code, §15.2-1300)

Example: Administration of Cash Proffers -- Town of Strasburg and Shenandoah County: Town to accept and pass-through cash proffers for the benefit of the County.

**5. Specific Authority for Joint Functional Activities**

In addition to the general authorization to enter into interlocal agreements, State law specifically authorizes localities to deliver the following services jointly:

(a) **Jails**- Any two or more counties or cities may establish a regional jail or jail farm. (Code, §53.1-105)

Example: Piedmont Regional Jail--Amelia, Buckingham, Cumberland, Lunenburg, Nottoway, and Price Edward Counties.

(b) **Juvenile facilities**- Any combination of counties and cities may establish a joint juvenile detention home, group home, or other similar facility. (Code, §16.1-309.3)

Example: Regional juvenile detention center--Stafford, Spotsylvania, Caroline, and King George Counties, and the City of Fredericksburg

(c) **Libraries**- Any two or more counties or cities may operate a regional library system. There are 26 regional library systems. (Code, §42.1-37)

Example: Pamunkey Regional Library--Goochland, Hanover, and King William Counties

(d) **Social services**- The State Board of Social Services, with consent of the Governor, has the authority to establish a social services district consisting of two or more counties and/or cities. Further, localities may choose to contract for services with another jurisdiction to manage the administrative and program functions of the social services operation. Moreover, any combination of counties and cities, even though they may have separate boards, may designate a single superintendent of social services. (Code, §§63.2-300, 63.2-306, and 63.2-307)

Examples: Social Services District--Henry County and Martinsville; Contract for services—Roanoke County and Salem; Joint social services department--Augusta County, Staunton, and Waynesboro.

(e) **Mental health services**- Counties and cities may establish joint community services boards for the delivery of mental health, mental retardation, and substance abuse services. (Code, §37.1-194)

**5. Specific Authority for Joint Functional Activities** (continued)

(f) **Solid waste and recycling--**Any county, city, and town may contract with another locality for the joint collection, management and disposal of solid waste and recyclable materials. (Code, §15.2-928)

(g) **Law enforcement**- Any locality may enter into reciprocal agreements with another locality for the consolidation of police departments. In addition, any county may contract with its sheriff and any town within its borders by which the sheriff will provide law enforcement services within the municipality. (Code, §15.2-1726)

(h) **Emergency services**- Any adjoining localities may establish joint emergency services operations plans and programs for preventing or responding to disasters in their area. (Code, §44-146.20)

(i) **Animal shelter**- Counties and cities may establish joint animal shelters to confine stray animals. (Code, §3.1-796.96)

**6. Joint Planning Commissions**

Any two or more counties, cities, or towns may establish joint local planning commissions. The participating localities may determine the membership of such commissions and the apportionment of expenses as they deem appropriate. (Code, §§15.2-2218 and 15.2-2219)

Example: Northampton County Joint Planning Board (Northampton County and the Towns of Cape Charles, Cheriton, Eastville, Exmore, and Nassawadox)

**7. Joint Authorities**

In addition to agreeing jointly to deliver services, any two or more counties, cities, or towns may jointly establish the authorities or special districts listed below for the provision of services and facilities. All these authorities or districts may be established by action of the local governing bodies, without any further authorization from the State, although some may require a referendum.

(a) **Public service authority**- Provision of water, sewer, water and sewer, stormwater control, and garbage and refuse collection and disposal services. (Code, §15.2-5102)

Example: Upper Occoquan Sewer Authority--Fairfax and Prince William Counties and the City of Manassas

(b) **Electric authority**- Provision of facilities for the generation and transmission of electric power. (Restricted to localities meeting certain statutory criteria.) (Code, §15.2-5403)

(c) **Redevelopment and housing authority**- Demolition of unsafe housing in slum areas and provision of decent, safe, and sanitary housing for persons with low incomes. (Code, §36-24)

Examples: Accomack-Northampton Housing and Development Corporation; Cumberland Plateau Regional Housing Authority (Buchanan, Dickenson, and Tazewell Counties)

**7. Joint Authorities** (continued)

(d) **Transportation district**- Preparation of transportation plans and provision of transit facilities. (Code, §15.2-4504)

Examples: Accomack-Northampton Transportation District; Potomac and Rappahannock Transportation District (Prince William and Stafford Counties, and Manassas, Manassas Park, and Fredericksburg)

Note: The General Assembly has levied an additional 2% tax on gas sold within the counties and cities which are members of the Potomac and Rappahannock Transportation District and of the Northern Virginia Transportation Commission (established by special action). The revenues from this tax are to be used for any transportation purpose for the former organization and for the operating deficit and debt service of the mass transit system of the latter. (Code, §58.1-1718 et seq.)

(e) **Local transportation improvement district**- Construction, expansion, improvement, and operation of transportation improvements in the district. (Code, §33.1-410)

Example: Route 28 Improvement District (Fairfax and Loudoun Counties)

(f) **Airport authority**- Acquisition, operation, and maintenance of airport facilities. (Code, §5.1-35 and 5.1-36)

Examples: New River Valley Airport Commission (Montgomery, Pulaski, and Giles Counties; Towns of Pulaski, Pearisburg, and Christiansburg); Roanoke Regional Airport Commission (Roanoke County and Roanoke City)

(g) **Industrial development authority**- Promotion and development of industry and trade (Code, §15.2-4916)

Example: Franklin-Southampton Economic Development Commission (City of Franklin and Southampton County)

(h) **Produce market authority**- Construction and operation of facilities for farmers and others to sell fresh farm produce to the public. (Code, §3.1-48)

(i) **Public recreational facilities authority**- Acquisition, operation, and maintenance of recreational facilities such as coliseums, sports facilities, amusement parks, and zoos. (Code, §15.2-5602)

Examples: Hampton Roads Sports Authority--operation of coliseum (Cities of Newport News and Hampton)

(j) **Park authority**- Acquisition, operation, and maintenance of parks and recreation areas. (Code, §15.2-5702)

Example: Fredericksburg-Stafford Regional Park Authority

(k) **Hospital or health center commission**- Construction and operation of hospital, health center, or other similar facility. (Code, §15.2-5200)

Example: Northern Virginia Health Center Commission (Cities of Alexandria, Manassas, Manassas Park, Fairfax, and Falls Church; Counties of Fairfax, Loudoun, and Prince William; and Towns of Herndon and Vienna)

**7. Joint Authorities** (continued)

(l) **Mosquito control district**- Control and elimination of mosquitoes. (Code, §32.1-187)

(m) **Sanitation district-tidal waters**- Protection of tidal waters, public health, and natural oyster beds from pollution through construction and operation of sewage disposal facilities. (Code, §21-141 et seq.)

(n) **Sanitation district-nontidal waters**- Protection of nontidal waters, public health, and natural oyster beds from pollution through construction and operation of sewage disposal facilities. (Code, §21-224 et seq.)

(o) **Jail authority**- Construction and operation of a jail. (Code, §53.1-95.2)

Example: Riverside Regional Jail Authority (Cities of Petersburg, Hopewell, and Colonial Heights and Counties of Charles City, Chesterfield, Prince George, and Surry)

(p) **Regional criminal justice training academy**- Establishment and conduction of training for public law-enforcement and correctional officers. (Code, § 15.2-1747)

Example: Northern Virginia Criminal Justice Academy (Cities of Alexandria, Falls Church, Fairfax, Manassas and Manassas Park; Counties of Arlington, Fauquier, and Loudoun; and Towns of Leesburg, Middleburg, and Purcellville)

(q) **Regional juvenile detention commission**- Establishment and operation of residential facility for juveniles. (Code, §16.1-315 et seq.)

Example: Rappahannock Juvenile Detention Center (City of Fredericksburg and Counties of King George, Louisa, Madison, Orange, Spotsylvania, and Stafford)

**8. Joint Enterprise Zones**

Two or more adjacent localities may request the State to designate a "joint enterprise zone" as an inducement for the development of those areas. Businesses locating or expanding in the zone are provided certain tax and other incentives, and the economic benefits are to be shared among the affected localities. (Code, § 59.1-534)

**9. Regional Transportation Program**

At the request of the localities involved, the General Assembly has established the Northern Virginia Transportation District Program. Under the terms of this program, designated State funds, most of which would otherwise be paid directly to the member localities, are transferred to the State Transportation Trust Fund and used to pay the debt service on bonds issued by the Commonwealth Transportation Board to construct various transportation projects in the region. The actual projects included in the program are selected by the localities. The State funds which are used are the local share of the State recordation tax and local public rights-of-way use fees collected by the Virginia Department of Transportation, as well as general fund appropriations. The jurisdictions involved are the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William. (Code, §§ 33.1-221.1:3 and 58.1-815.1, and Chapter 391 of the 1993 Acts of Assembly, as amended by Chapter 470 of the 1994 Acts of Assembly, Chapter 761 of the 1998 Acts of Assembly, and Chapter 538 of the 1999 Acts of Assembly.)

**10. Special Legislation for Authorities and Districts**

In some instances, the general statutory authorization cited in the previous section either did not meet the needs of localities seeking to establish regional special purpose districts/authorities or did not exist at the time. In such cases, the General Assembly enacted special legislation authorizing the establishment of a mechanism to effect the regional provision of a service.

Examples: Hampton Roads Sanitation District--Collection and treatment of sewage. (Ch. 334, *1938 Acts of Assembly*.) [Cities of Portsmouth, Virginia Beach, Norfolk, Chesapeake, Suffolk, Poquoson, Hampton, Newport News, and Williamsburg and the Counties of James City, York, and Isle of Wight.]

Southeastern Public Service Authority of Virginia--Collection and disposal of solid waste, including construction and operation of waste-to-energy facilities. (Ch. 554, *1977 Acts of Assembly*.) [Cities of Suffolk, Chesapeake, Portsmouth, Virginia Beach, Norfolk, and Franklin, and the Counties of Southampton and Isle of Wight.]

Richmond Metropolitan Authority--Construction and operation of toll roads and parking facilities; construction and operation of minor league baseball facility. (Ch. 178, *1986 Acts of Assembly.*) [City of Richmond and the Counties of Henrico, Chesterfield, and Hanover.]

Northern Virginia Transportation Commission--Preparation of plans for transportation facilities; operation of transit system. (Ch. 630, *1964 Acts of Assembly*.) [Fairfax and Arlington Counties and the Cities of Alexandria, Fairfax, and Falls Church.]

Virginia Coalfield Economic Development Authority--Provision of financial support for a wide range of activities designed to enhance the economic base of the region. (Code, §15.2-6000 et seq.) [Lee, Wise, Scott, Buchanan, Russell, Tazewell, and Dickenson Counties, and the City of Norton.]

**11. Joint Schools, School Facilities, and Superintendents**

Virginia law vests in the State Board of Education the authority to establish school division lines. However, the division lines that existed on July 1, 1978 are currently recognized by law as establishing the school divisions of the State, and no division may be divided or combined with another without the consent of the localities involved. Since that date, the State Board has consented to the consolidation of several school divisions. (Code, §22.1-25)

Example: The City of Williamsburg and James City County operate a consolidated schools system.

Moreover, within the framework of the existing divisions, any two or more school boards may, with the consent of the State Board of Education, enter into one or more of the cooperative arrangements listed below:

(a) **Joint and regional schools**-- School boards may establish jointly owned and operated regional schools, including regional public charter schools. (Code, §22.1-26)

Examples: Joint technical/vocational school--Orange, Culpeper, Rappahannock, and Madison Counties
Joint special education program--City of Norton and Wise County

(b) **Contracting**-- A school board may contract with the school board of an adjacent school division for the use of its school facilities. (Code, §22.1-27)

**11. Joint Schools, School Facilities, and Superintendents** (continued)

(c) **Joint superintendent**-- Any two or more school divisions may appoint the same person as division superintendent. (Code, §22.1-62)

Example: Before the City of South Boston reverted to town status, the city and Halifax County maintained separate school boards but jointly employed one superintendent and central staff.

**12. Provision of Services by Planning District Commission**

In 1968 the General assembly enacted the Virginia Area Development Act (VADA), which resulted in the division of the State into 22 planning districts. The activities of each planning district are directed by a planning district commission (PDC) comprised of representatives of the localities geographically located therein. One of the principal legislative purposes for enactment of the VADA was to encourage "the creation of effective regional planning agencies." Initially, the PDC's were not granted the authority to operate programs for the provision of services to member jurisdictions. However, the law has been amended over subsequent years so that now it authorizes PDC's to operate and provide general government programs and services, at the request of their members. PDC's may not, however, operate programs or provide services within any jurisdiction which opposes such an action. (Code, §§15.2-4208 and 15.2-4209)

**13. Consolidation of Local Governments**

Chapter 35 of Title 15.2 contains two articles dealing with the consolidation of governmental units. Article 1 concerns the consolidation of like units of local government (e.g., county-county consolidations), and Article 2 concerns the consolidation of any combination of counties, cities, and towns. The latter article has provided the legal basis for most consolidation efforts in Virginia. The following paragraphs summarize the major features of Article 2:

(a) **Scope of the Article** . Article 2 authorizes any combination of counties and cities to consolidate into a single city, or a single county. Further, the article allows a county to consolidate with all of its towns into a consolidated county or city. (Code, §15.2-3520)

(b) **Initiation of Proceedings.** (1) The governing bodies of localities may initiate consolidation proceedings by developing consolidation agreements which must cover certain specified points relative to the proposed consolidation. The original copy of the consolidation agreement and a petition, signed by the chief elected official and the clerk of each local governing body which is party to the agreement, requesting a referendum on the proposed consolidation must be filed with a circuit court having jurisdiction in the area. (2) If the governing body of a locality fails to take the initiative in developing a consolidation agreement, the qualified voters of such locality may file a petition with the local governing body asking it to develop a consolidation agreement with other localities named in the petition and requesting it to petition the court for a referendum on the question of consolidation. A copy of the voters' petition to the local governing body is concurrently filed with the circuit court. The voters' petition must be signed by not less than 15% of the registered voters in that jurisdiction as of January 1 of the year in which the petition is filed. If the local governing body fails to develop a consolidation agreement within one year, the judge of the circuit court shall appoint a committee of five citizens of the locality to act in lieu of the governing body in developing such agreement and in petitioning the court for a referendum on the issue of the proposed consolidation. (Code, §§15.2-3529 and 15.2-3531)

(c) **Referendum Requirements.** In order for a consolidation to be effected, it must be approved in separate referenda in each locality which is party to the consolidation agreement. If a county proposes to consolidate with another county or city, the towns within such county need not be accorded a separate vote. If a county proposes to consolidate with its towns into a consolidated county or city, such a consolidation requires approval by separate referenda in each town and in the county. (Code, §§15.2-3538 and 15.2-3547)

**13. Consolidation of Local Governments** (continued)

(d) **Option for Consolidation as County or City.** A consolidation agreement may include a provision leaving to the voters the question as to whether the resulting consolidated entity shall be a county or a city. This question shall be voted on at the same time as the question of consolidation. (Code, §15.2-3539)

(e) **Effect of Consolidation on Towns.** Towns located within a county proposing to consolidate with another county or city into a consolidated county may continue as towns within the new consolidated county. Any town located within a county proposing to consolidate with another county or city into a consolidated city may continue to exist as a township within the consolidated city, in which case the charter of the former town shall become the charter of the township. Townships, however, are prohibited from annexing and from becoming cities. (Code, §§15.2-3532 and 15.2-3534)

(f) **Limitation on Authority to Consolidate as a City.** In any instance where localities propose to consolidate as a city under Article 2, such proposed consolidation must be reviewed by the Commission on Local Government and by a special three-judge court before the issue may be submitted to the electorate for approval. The court is required to review the proposed consolidated city to determine (1) whether the resulting entity will have the requisite population and population density (20,000 and 300/square mile, or 50,000 and 140/square mile; i. e., the same criteria for county immunity and county transition to city status), (2) whether the proposed consolidated city has the fiscal capacity to function as an independent city, and (3) whether the proposed consolidation is in the best interests of the parties and the State. If the proposed consolidated city will include an existent city, the population and population density requirements are waived. No proposed consolidated city may be established unless the court finds that the applicable statutory standards are met. The court may not impose terms and conditions on a proposed consolidation, but merely approve or deny the consolidation as proposed. (Code, §15.2-3526)

(g) **Optional Provisions in Consolidation Agreements.** In order to facilitate the consolidation of diverse localities, the following provisions are among those which may be included in consolidation plans:

(1) That the tax rate on real property may vary throughout the consolidated entity in recognition of varying service needs;

(2) That a special tax may be levied on real property within a portion of the consolidated entity for a period up to 20 years for the repayment of debt incurred for such area prior to consolidation;

(3) That former counties and cities within the consolidated entity might be named boroughs or shires; these borough or shires might coincide with the special tax or debt districts.

(4) That if the agreement calls for the creation of a consolidated city, it may include, subject to subsequent approval by the General Assembly, any provision of the charter of any of the cities which are parties to the consolidation agreement; and

(5) That if the agreement calls for the creation of a consolidated county, it may include any provision from the charter of any of the municipalities which are parties to the consolidation agreement and any provision of any of the optional forms of county government allowed by law. (Code, §15.2-3534)

Example: The last consolidation of local governments effected in Virginia was that between the Cities of Suffolk and Nansemond in 1974.

## 14. Partial Consolidation

In addition to a complete consolidation, State law affords counties and cities the option of a partial consolidation. Under such an alternative, the municipality would become a "tier-city," having all the powers, duties, and responsibilities of a town, augmented by whatever additional powers and service delivery responsibilities are granted the tier-city in the consolidation plan developed with the affected county. (Code, §§1-13.28:1 and 15.2-3549)

Partial consolidations are subject to approval by referendum in each jurisdiction which is a party to the agreement. (Code, §§15.2-3538 – 15.2-3540)

Example: The City of Staunton and Augusta County developed a plan of partial consolidation which would have transformed the City of Staunton into a tier-city within the County, but the plan was rejected by the electorate of Staunton in 1984.

## 15. Reversion to Town Status

Any city with a population of less than 50,000 may change its status to that of a town. This action may be initiated either by the city council or by a petition signed by 15% of the registered voters of the city. In either case, the proposed action must be reviewed by the Commission on Local Government and by a special three-judge court. If the court finds that the change in status would be in the best interest of the city, county, Commonwealth, and the people of the county and city, it shall grant the petition. In doing so, the court may impose appropriate terms and conditions. The new town may not institute any annexation proceedings against the county for two years following changing its status from city to town, except for an annexation agreement with the county. Any jurisdiction changing from city to town status is prohibited from returning to the status of an independent city. (Code, §15.2-4100 et seq.)

Example: The City of Clifton Forge reverted to a town effective July 1, 2001.

## 16. Regional Governments

While there are no provisions presently in the Code of Virginia which provide for the establishment of regional governments, the State's Constitution authorizes their creation. Article VII, Section 2 of the Constitution states that the General Assembly may provide for regional governments by general law or special act. The Constitution states that no regional governments may be established without approval by the voters in each county or city, or part thereof proposed for inclusion in the regional government. Thus, the General Assembly could set forth by general law a form of regional government that could be adopted by localities; or localities could develop a regional government tailored to their particular needs and request the General Assembly to authorize such by special act.

Example: In 1990, the General Assembly authorized the creation of the Roanoke "regional" government to serve the City of Roanoke and Roanoke County. However, the establishment of the regional government was defeated in the required referendum.

Staff
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