

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY**  
**CENTER FOR PUBLIC ADMINISTRATION AND POLICY**

*To Be Or Not To Be? City Reversion in Virginia*  
*A Primer for Local Government*

*A professional paper submitted in partial fulfillment*  
*For a Master's of Public Administration Degree*

**By**  
**Benny Summerlin**

**May 4, 2002**

## *Executive Summary*

Reversion from a city to town status in Virginia is a seldom-tested option that has been available for more than a decade. Virginia is unique in that cities are independent of the county or counties in which they are geographically located. However, towns are part of counties. Historically, cities expanded their boundaries by annexing adjacent county land. As Virginia urbanized, this local government structure put cities and counties in competition with one another, straining city-county relations.

Legislation that authorized small and medium sized cities to revert to town status was enacted in 1989. Since then, two cities, South Boston and Clifton Forge, have reverted to towns. Reversion has two principal advantages for a city, relief of fiscal stress and restoration of annexation authority. Counties generally view reversion as a shifting of service responsibilities, increasing fiscal stress on the county. There are advantages and disadvantages to reversion for both cities and counties. Various studies have been conducted on city-county relations in Virginia. The most recent study was completed by the Grayson Commission in 1986. The Commission was charged with making recommendations to soothe annexation difficulties and improve local government. The Commission's work provided the logic for the guiding principles of reversion contained in the *Code of Virginia*.

City reversion is a contemporary topic in Virginia that lacks a comprehensive body of knowledge. This paper is a primer or handbook for local governments considering the option. The paper reviews Virginia's local government structure, discusses municipal reorganization in the context of public administration theory, and analyzes the reversion process mandated by the *Code of Virginia*, including advantages and disadvantages of reversion. Included are two case studies that provide insights about the process and lessons learned. All processes can be improved and reversion is no exception. The paper offers observations and recommendations for improvement of the process.

# *To Be Or Not To Be? City Reversion in Virginia*

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## **Introduction**

Reversion from a city to town status in Virginia is a seldom-tested option that has been available for more than a decade. Virginia's city-county separation is a unique feature of local government that is not followed on a statewide basis elsewhere in the United States.<sup>1</sup> Cities are independent of the county or counties in which they are geographically located. However, towns are part of counties. A town in Virginia is equivalent to what is deemed a city throughout the rest of the nation. Virginia has 95 counties, 39 cities, and 190 towns.<sup>2</sup> Why has no other state seen fit to copy Virginia's system of independent cities? Maybe because it doesn't work very well.

Historically, allowing a city to grow by annexing surrounding county land has put counties and cities in competition with one another, straining city-county relations. Few local issues have been more contentious than annexation. City annexations fell into disfavor with the General Assembly in part because Virginia's unique city-county structure led to a highly adversarial win-lose process. With limited success, the General Assembly has tried repeatedly to address this local government structural problem. During the most recent study of local government structure conducted in 1987, the General Assembly placed a moratorium on city-initiated annexation that remains in effect.

Legislation that authorized small and medium sized cities to revert to town status was enacted in 1988. Since then, two cities, South Boston and Clifton Forge, have reverted to towns. One other citizen-initiated reversion petition was filed but dismissed early in the process by the court due to procedural flaws. Currently, the option of city reversion is available to 28 Virginia cities.<sup>3</sup> Many communities are interested in the reversion option. Reversion is of particular interest to me since I am employed by Henry County and the City of Martinsville could revert to town status in

Henry County. Understanding the potential impact on both jurisdictions will be extremely helpful should Martinsville choose to explore the reversion option.

City reversion is a contemporary topic in Virginia that lacks a comprehensive body of knowledge for local governments considering the option. The underlying norms in this paper center around three issues: intergovernmental relations, fairness of the reversion process, and relief of fiscal stress. This paper reviews Virginia's local government structure, discusses municipal reorganization in the context of public administration theory, discusses the reversion process mandated by the *Code of Virginia*, and outlines the interests of the cities, counties, and the Commonwealth, including advantages and disadvantages of reversion. Included are two case studies that provide insights about the process and lessons learned. The paper also offers observations and recommendations for improvement of the process. Finally, concluding comments are provided on the reversion process.

### **Methodology**

The applied research paper is presented in the posture of neutral advice. The methodology utilized is a review of existing knowledge and interviews. Since city reversion is unique to Virginia, a limited amount of scholarly information was available for review. Mr. Ted McCormack, Deputy Director of the Virginia Commission on Local Government, was interviewed at the Commission offices in Richmond. Local government administrators in the affected jurisdictions were also selected for interviews since they were likely to possess technical and in-depth information concerning the experiences of their respective jurisdictions. This included Mr. Gary Christie, former City Manager of South Boston from 1989-1996, and Mr. Dan Sleeper, former County Administrator of Halifax County from 1992-2000. Also interviewed was Mrs. LeeAnna D. Tyler, Interim Town

Manager of Clifton Forge and Mrs. Tammy P. Stephenson, County Administrator of Alleghany County. Also, case studies of the two previous reversions were completed. The case studies were used to corroborate or discount information gained from other sources in addition to offering perspectives acquired by experience with the process.

I would like to thank Dr. Charles Goodsell, Professor at Virginia Tech's Center for Public Administration and Policy, for his service as faculty advisor on this project. Thanks are also due to Ms. Kathleen Dooley, Blacksburg Town Attorney and President of the Virginia Local Government Attorney's Association, and Mr. Ted McCormack, Deputy Director of Commission on Local Government, for their service in reviewing the manuscript. All three individuals' professional judgement and counsel were invaluable, for which I am truly grateful.

### **Virginia Local Government Structure**

Local government in Virginia represents a blending of unwritten English constitutional tradition, legislation, and Virginia's six written constitutions. Counties were originally Virginia's only unit of local governance. The first counties were established in 1634 by an act of the Grand Assembly that divided the Virginia colony into eight shires, much like their counterparts in England.<sup>4</sup> Shires quickly became known as counties. These early counties served as convenient territorial divisions for administering justice, collecting taxes, and otherwise establishing the institutions of civil governance. From the colonial era until the Civil War, county government was largely the basis of local rule. In the late 19<sup>th</sup> century, Virginia joined the list of "Dillon Rule" states, which asserts that all local governing authority is granted at the pleasure of the state legislature. The General Assembly may grant localities specific powers to accomplish their purpose unless those powers are incident, expressly given, or necessarily implied.

Virginia sporadically implemented a subtle and largely informal evolving effort to provide more effective government for urbanizing areas of the state. There was a belief that rural and urban people should have different government structures. In 1722, Governor Alexander Spotswood granted Virginia's first city charter to the Town of Williamsburg.<sup>5</sup> Cities evolved and gained formal acceptance in Virginia local government under legislation enacted shortly after the constitution of 1869 went into effect. A statute was passed to divide counties into three or more townships, except no part of any town or city having a separate organization or a population of 5,000 or more was to be included in any township.<sup>6</sup> Instead, these government units were referred to as cities. The local government provisions of the constitution of 1902 prescribed the organization of county and city governments in exacting detail. The 1902 constitution prohibited the General Assembly from passing special acts to provide for the organization, government, and powers of counties. These provisions built a rigid framework around counties that the General Assembly was powerless to change. Soon after adoption of the 1902 constitution, it became evident that a key challenge of the 20th century would be to develop flexible, efficient, and responsive approaches to government management.<sup>7</sup>

At the turn of the century Virginia was predominantly rural and its people highly self-sufficient. Counties provided few services and levied few taxes. Urbanized areas became divorced from surrounding counties, incorporated as an independent unit, and given a charter as a city. County government continued to provide relatively few services. City government had greater discretion to establish municipal services. As the Commonwealth began to experience dramatic population shifts, established cities and towns grew larger and new ones emerged. Increasing urban populations came to demand more services from their government, including public safety, transportation, utilities, and education.

As counties moved to the era of baby booming post-war years, they faced increasing public demands to provide services comparable to those found in cities. The authority of county governments to provide urban services directly or through sanitary districts or authorities steadily expanded. Optional forms of county government were authorized to offer flexibility in service delivery. Since 1928, it has been possible to create optional forms of county government in addition to the traditional form, including the county manager form, county executive, urban county executive, county manager plan, and county board form.<sup>8</sup> By the end of the 1950's, the roles of city and county government had become practically indistinguishable in many regions of Virginia.

Virginia's present Constitution, adopted in 1971, defines a "city" as being "an independent incorporated community," which either (1) became a city as provided by law before noon on July 1, 1971 (the effective date of the Constitution), or (2) has within defined boundaries a population of 5,000 or more and has become a city as provided by law.<sup>9</sup> The 1971 Constitution also treats counties and cities more nearly alike, allows flexibility in shaping the organization of government in localities, and offers a range of options for approaches to problems that cut across local boundaries.

### **Boundary Adjustments**

Increasing demand for services weighed heavily upon cities. Counties had a relatively untapped tax base upon which to draw, but cities found themselves restricted by their population and territorial boundaries. As the need for revenues increased, cities sought to increase their size and expand their tax base by annexing surrounding county land. Counties had no stringent objections to annexation as long as counties remained in their passive rural role. As counties faced the rising demand for services, they began to view their tax base more protectively and opposition to

annexation intensified. Suburbanization and ex-urbanization made annexation outmoded. By the late 1950's, hotly contested resistance was an expected adjunct to any attempted annexation.<sup>10</sup>

Prior to 1904, the General Assembly adjusted corporate limits by special act of the legislature. In 1904, the General Assembly adopted legislation to establish annexation procedures that were used most of the twentieth century. Significant revisions were enacted in both 1962 and 1979.<sup>11</sup> Recourse to the courts has been a feature of the annexation process since the beginning. Subsequently, the Virginia Supreme Court decided a major annexation case and reached the following conclusions regarding the content and legislative history of the statute:

- The state favors cooperation rather than competition among local governments.
- Annexation courts must balance the interests of the people in all areas concerned.
- Annexation may not be warranted where urbanized counties already provide urban services.
- The state's interest in maintaining strong local governments is an important consideration.
- The findings and recommendations of an impartial administrative agency will help to promote and protect this interest.<sup>12</sup>

Counties meeting certain specified criteria are eligible for immunity for an unlimited time from city-initiated annexation and incorporation of new cities. Currently, thirteen (13) counties are eligible for annexation immunity: Arlington, Fairfax, Prince William, Frederick, Montgomery, Henrico, Chesterfield, York, Henry, Loudoun, Spotsylvania, Stafford, and Roanoke. While there is a moratorium on county requests for statutory immunity, the following six counties obtained immunity before the moratorium was imposed: Prince William, Henrico, Chesterfield, Roanoke, Henry, and York.<sup>13</sup>

There are numerous options and idiosyncrasies in adjusting municipal boundaries. Citizen-initiated annexation proceedings and voluntary boundary line adjustment agreements are just a few examples. The option is also available for complete consolidation or merger of independent local governments. Consolidation requires mutual agreement from the city and county and is, therefore, a politically Herculean task. There has not been a consolidation completed in the last 28 years. Previous consolidations, all occurring in eastern Virginia, include:

- Elizabeth City County/Hampton City 1952
- Warwick City/Newport News City 1958
- South Norfolk City and Norfolk County/Chesapeake City 1963
- Princess Anne County/Virginia Beach City 1963
- Nansemond City/Suffolk City<sup>14</sup> 1974

Also, the General Assembly established the Commission on Local Government in 1979 as an impartial administrative agency to help ensure all of the state's counties, cities, and towns are maintained as viable communities in which their citizens can live. The commission is charged specifically with investigating and analyzing the probable effect on the residents in an area in which any of the following actions are proposed: annexation, petitions for immunity for a portion of a county's territory from city-initiated annexation; transition from a county to a city or from a city to a town; establishment of a new independent city; or consolidations proposing the establishment of a new city.<sup>15</sup>

At least five major studies have been commissioned by the General Assembly on city-county relations:

- Metropolitan Areas Study Commission (Hahn Commission, 1966-1967)
- Commission on Constitutional Revision (1968)

- Commission on City-County Relationships (Stuart Commission, 1971-1977)
- Commission on State Aid to Localities and Joint Subcommittee on Annexation (McClure Commission, 1977-1978)
- Local Government Structures and Relationships Commission (Grayson Commission, 1986-1989)<sup>16</sup>

The most recent study commission is known as the Grayson Commission for Delegate George W. Grayson, who sponsored the legislation establishing it (HJR 163/1986).<sup>17</sup> The Grayson Commission was charged with making recommendations to soothe the annexation difficulties and improve local government. That same year the General Assembly placed a temporary moratorium on city-initiated annexations to give the Commission time to study the issue without inducing cities to “race to the courthouse” to preserve their annexation authority. The moratorium has been extended several times and remains in effect today. The Commission’s work provided the logic for the guiding principles of reversion. No legislation was enacted from the work of the Commission, but its ideas colored subsequent developments. The Commission advocated encouraging all but the largest cities to re-integrate within the county from which they were originally formed. The following levels of municipal status would result from the Grayson Commission’s proposals:

- Cities with a population of 125,000 or more would remain independent.
- All other cities may continue to be independent, but would be offered incentives to re-integrate with the county. The city could re-integrate as a town or as a dependent unit known as a “Class A” city if it had a population of at least 10,000.
- No new independent city would be allowed to come into existence unless it had a population of 125,000 or more.

- Only towns with a population of 10,000 would be eligible to become a dependent “Class A” city.
- A population of 3,500 would be required for incorporation of a new town.
- Only “Class A” cities and towns would be allowed to expand their boundaries through the use of non-adversarial, non-judicial annexation process.<sup>18</sup>

Legislation that allowed small and medium sized cities to revert to town status was enacted in 1988 even before publication of the Grayson Commission’s final report. Since 1988, two cities have reverted to towns: the City of South Boston became a town in Halifax County on July 1, 1995, and the City of Clifton Forge became a town in Alleghany County on July 1, 2001. Also, in 1996 a citizen-initiated reversion petition was filed to cause the City of Charlottesville to revert to town status in Albemarle County. The reversion petition was dismissed because of the failure of the petitioner to notify the Commission on Local Government and any affected local governments as required by the reversion statute.<sup>19</sup>

### **Municipal Reorganization**

Since Virginia’s independent local government structure is unique, many principles of municipal reorganization do not relate to the issue of reversion, such as introducing a more rational system of administration. One approach taken from the field of economics and blended with political science may have some relevance. This approach is public choice and is also known as rational choice and social choice. Public choice is the act of people selecting from alternatives. One selects public choices when he selects among alternatives for others as well as for himself.

Public choice is founded upon the view that individuals have different preferences in public goods and services and that citizen satisfaction will be increased by institutional arrangements which

facilitate the expression of those preferences and which enable the supply of goods and services to vary in kind and intensity. This perspective applied to local government advocates that “instead of assuming that fragmentation of authority and overlapping jurisdictions are the source of the contemporary urban crisis, the opposite proposition should be entertained as a serious hypothesis, that the absence of fragmented authority and multiple jurisdictions is the principal source of institutional failure in urban government.”<sup>20</sup>

In the context of reversion, citizens residing in a city may live in an urban area because of the services offered. Even though small local governments may not be cost-effective, people may be willing to pay more to receive desired municipal services. Forcing people into larger governmental structures may lead to dissatisfaction, particularly when the county may have a different philosophy on the types and quality of public services to be delivered.

The opposing viewpoint is that reversion pertains only to small and medium sized cities and that the creation of a large unitary polity is not the outcome. Proposals to create large centralized local governments may be contrary to the public choice view but, in essence, reversion only integrates two relatively small governmental units. Both probably already cooperate in the provision of some services. After reversion, a town exists with the authority to provide an overlay of services to meet the specific needs of town residents. Reversion from this perspective may be viewed as complementary in meeting the different preferences of residents.

### ***The Legal Process for Reversion***

Chapter 41, Title 15.2, of the *Code of Virginia of 1950*, as amended, contains the reversion legislation (see Appendix). For municipally-initiated reversion, any city with a population of less than 50,000 persons at the time of the latest census may revert to town status. A special procedural

requirement of a voter referendum applies to cities having a population of more than 5,000 but less than 5,900. (See Chapter 688, Acts of the Assembly, 1989.)

The procedure for initiating action on reversion is for the city to notify the Commission on Local Government of its intention to make the transition from city to town status. This must be done prior to petitioning the court for review of the proposed reversion action (§15.2-2907).

Upon receipt of the notice of the reversion action, the Commission shall meet with the representatives of the city and the affected county and schedule a review of the proposed reversion. Such review shall include oral presentations and a public hearing in the affected jurisdictions to afford all interested parties an opportunity to present evidence and to offer comment on the proposed reversion. At the conclusion of its review, the Commission shall submit a written report containing its finding of fact and recommendations with respect to the proposed reversion to the affected local governments and to the special three-judge court that subsequently must review the proposed reversion (§15.2-2907). The Commission's review of the proposed reversion must be based upon the same criteria and standards that apply to the special three-judge court as set forth in §15.2-4106.

The Commission's report is advisory in nature and is not binding on the special three-judge court. However, the report must be considered in evidence in any subsequent court proceeding (§15.2-2907).

Following completion of the Commission's review, the city may, if it opts to pursue the proposed reversion, petition the circuit court of the city by ordinance for an order granting the municipality town status. The city also must serve the appropriate county officials with notice of its intended action, including a copy of the reversion ordinance, and it must publish the ordinance as required (§15.2-4101 and §15.2-4102).

Upon receipt of the petition from the city, the local circuit court judge shall request the Virginia Supreme Court to convene a special three-judge court as required pursuant to Chapter 30, Title 13.2. In order for the special three-judge court to approve the proposed reversion, it must determine that:

- The city has a current population of less than 50,000 people;
- The adjoining county or counties have been made party defendants to the proceedings;
- The proposed transition from city to town status will not substantially impair the ability of the affected county to meet the service needs of its population;
- The proposed transition of the city to town status will not result in an inequitable sharing of the resources and liabilities of the town and the affected county;
- The proposed transition of the city to town status is, in the balance of equities, in the best interests of the city, the county, the Commonwealth, and the people of the county and the city; and
- The proposed transition of the city to town status is in the best interests of the state in promoting strong and viable units of local government.

If the court finds that the criteria for reversion have been satisfied, an order will be entered granting the petition for town status. Every order issued shall specify the effective date of the transition from city to town status, which shall be no sooner than six months from the date of the order (§15.2-4106 and §15.2-4111). In order to prevent any substantial inequities for any significant impairment of the ability of the county to meet the service needs of its residents, the special three-judge court has the authority to impose terms and conditions in accordance with §15.2-4106 to:

- Ensure an orderly transition from city status to town status;

- Make adjustments for any financial inequities which would otherwise result from the transition of the city to town status;
- Balance the equities between the affected jurisdictions; and
- Ensure the protection of the best interests of the city, the affected county, the Commonwealth, and the people of the county and the city.

The special three-judge court remains in existence for ten years from the effective date of the transition order to effect compliance with the terms and conditions set forth therein. The court may be reconvened at any time on its own motion, on the motion of the governing body of the county, the governing body of the town, or on petition of 15% of the voters of the town to enforce performance of the terms and conditions of the transition order. The court is granted the authority to enforce the terms and conditions of its order by appropriate process (§15.2-4120).

The governing body of a city may decline to accept town status on the terms and conditions imposed by the court. The ordinance or resolution declining town status must be adopted within certain statutorily prescribed time periods (§15.2-4109).

If the special three-judge court finds that a city is ineligible for transition to town status or the city governing body declines to accept town status on the terms and conditions imposed by that court, the city or citizens shall not file a subsequent petition requesting reversion to town status for at least five years (§15.2-4110).

A city that reverts to town status cannot institute contested annexation actions for a period of two years following the effective date of transition. The two-year moratorium against such contested annexations does not apply to boundary changes that are components of inter-local agreements (§15.2-4117). A city that reverts to town status cannot return to its previous independent status (§15.2-4113). If the General Assembly has not granted a new charter for a town prior to the

effective date of transition, the special three-judge court shall enter an order conforming the charter of the former city to a town charter. The charter entered by the court shall remain in effect until a new charter is granted by the General Assembly (§15.2-4112).

Unless provided by agreement between the former city and affected county or by the order entered by the special three-judge court, the town remains liable for the indebtedness, obligations, and liabilities of the former city, and all property and contractual rights of the former city shall vest in and become property of the town (§15.2-4114).

All ordinances of the former city shall become ordinances of the town insofar as they are applicable and consistent with statute. Any judicial proceeding pending against the former city at the time of the transition to town status may be perfected to judgement against the town (§15.2-4115).

The offices of the constitutional officers and their deputies and employees of the former city shall terminate upon the effective date of transition of the city to town status (§15.2-4115).

Under general law provisions, for a fifteen-year period following a consolidation of constitutional officers and school divisions and local school boards, no state funds which are distributed for any “governmental program or function” shall be reduced as a consequence of the consolidation below the aggregate amount which the consolidating local governments would have received had no consolidation occurred. The term “consolidation” is defined to include the reversion of a city to town status (§15.2-1302). If the former city participated in a regional library system with the adjoining county or continues to operate an independent library following the reversion for a five-year period, the state will continue funding the independent town library or former regional library as if no transition had occurred (§15.2-4116).

All officers and employees of the former city shall continue to serve the town following the effective date of transition until terminated as provided by law, or until their successors are appointed. Members of the governing body of the former city shall remain in office following the effective date of transition to town status until their successors are elected. The special three-judge court shall order a special election in accordance with §24.2-682 at least thirty days before the effective date of transition to elect members of the town governing body (§15.2-4115).

Reversion may also be citizen-initiated. The voters of any city with a population of less than 50,000 at the time of the latest census may petition the circuit court for reversion. Citizen petitions requesting the reversion of a city to town status must contain the signatures of 15% of the qualified voters of the city. All signatures must be collected within a twelve-month period. The petition must be served on the governing body of the affected municipality and county and published as required (§15.2-4102). Voter-initiated reversions are subject to the same review by the Commission on Local Government and the special three-judge court as prescribed for city-initiated reversion (§15.2-4102). The governing body of the affected city may decline to accept eligibility to town status awarded as a result of voter-initiated proceedings. The ordinance declining town status must be adopted within certain statutorily prescribed time periods (§15.2-4109).<sup>21</sup>

### **City, County, and the Commonwealth's Interest**

Perhaps the Commonwealth's interest is the easiest to identify. The state is interested in promoting strong and viable units of government. Also, as communities have become more interdependent, the state has become increasingly interested in the ability to respond to regional issues. Since Virginia's local government structure is firmly entrenched, reversion is one option that may promote the state's interest without necessitating complex structural changes in local

government. Also, the Commonwealth is the source of constitutional and statutory authority for local governments and has a responsibility for them. If a locality defaulted on its obligations, the Commonwealth may be called upon to “bail them out”. Reversion may help avoid or minimize detrimental effects on the Commonwealth.

### **Mutual Interests**

In examining the advantages and disadvantages of reversion from the perspective of a city and county, there are a number of mutual interests identified in reversion from a city to town status. First, there is territorial and fiscal integration of jurisdictions resulting in a larger combined land area, population, and tax base. The county and town becomes interdependent on one another, as both have a direct interest in the economic and social health of each other. Both achieve increased representation and influence in each other’s affairs. Economies of scale may be achieved and some duplicated services may be eliminated resulting in greater efficiency. The resulting government unit (county) is larger providing potentially greater influence in the state’s political process. Reducing the number of local government entities also promotes regional interests and promotes sound community planning.

### **City Advantages**

Reversion has two principal advantages for a city. First, it relieves fiscal stress by allowing the town to cease or reduce funding of high-cost services such as public education, human services, and constitutional officers. Town residents are likely to see reduced property taxes since the resulting town and county taxes are generally lower than identical taxes levied by the former city. The town can also preempt some county taxes, retaining the revenue to fund services not provided

by the county or to enhance town services. Financial “hold harmless” provisions also help cities transition services under reversion. The second principal advantage is that reversion restores annexation authority, which allows the town to grow and further expand its tax base.

Other advantages include preserving the former city as a distinct and active political entity. City Council becomes a town council. Cities generally have a well-developed utility infrastructure consisting of water, wastewater, etc., and reversion followed by annexation allows growth and development of the utility infrastructure.

### **City Disadvantages**

There are also disadvantages of reversion from a city’s perspective. Some see reversion as being reactive to problems instead of being proactive to reduce fiscal stress and allow growth. The principal disadvantage relates to the loss of clout, control, representation, and influence. There is a certain amount of clout, civic identity, and pride of being an independent city that is lost in reversion. Control is lost over some high profile and important services such as public education. The most critical issue in a reversion may be the impact on schools. There is also a loss of representation on many boards and commissions. Also, the town may have minimal influence in county affairs.

Financial matters also are a concern. Town residents pay town and county property taxes resulting in double taxation with minimal influence in setting the county tax levy. Eight of 39 cities have independent pension plans, whereas most counties participate in the Virginia Retirement System. Two of the eight cities are eligible for reversion: Charlottesville and Danville.<sup>22</sup> Fair and equitable treatment of employees in conversion of pension plans is a concern. Reversion also has

significant administrative, legal, and political costs, particularly if it is an adversarial process between the city and county.

A city's minority population also may see particular disadvantages to reversion. Over time, some cities have become the historical centers of Virginia's black population. A city's urban core typically attracts minority populations that require higher levels of human services than the surrounding county. Public benefit levels may be higher in the city than what would be offered in the surrounding county after reversion. For example, in the Charlottesville citizen-initiated reversion, records indicated that the benefit level for Aid to Families with Dependent Children (AFDC) in Charlottesville was \$354 per month, whereas the benefit in Albemarle County was \$291 per month.<sup>23</sup> Local government, particularly in rural areas, is one of the largest employers in the community. Reversion usually results in the termination of some city jobs since the workload may be absorbed by county departments. Many of these city jobs may be held by minorities. Reversion also necessitates new electoral arrangements and could dilute minority-voting strength depending on the method used to draw new voting districts.

The *Code of Virginia* does not address city reversion in the context of multiple receiving counties. Currently, there are eight cities surrounded by two counties and one city surrounded by three counties.<sup>24</sup> Splitting a city by reversion into more than one county could divide communities of interest. Finally, a city reverting to a town can never return to city status.

### **County Advantages**

Perhaps the principal county advantage is the additional land, residents, and property tax base reversion would generate. This provides for increased bonding capacity since bonding capacity is a function of the total assessed value of real property in the county. Reversion promotes concentration

of development around the town's infrastructure without fear of total loss of the tax base. The town providing an overlay of services helps satisfy special needs without intervention by the county. The Board of Supervisors has increased influence under reversion since they represent more residents than before. Reversion also simplifies decision-making.

Financial "hold harmless" provisions in the *Code of Virginia* help counties with the transition of services under reversion. Counties must provide the same level of services for town residents as they provide for county residents. There are numerous one-time capital costs for equipment acquisition, records transfer, etc. that must be funded by the county. The "hold harmless" provision was designed to provide the most favorable funding formula for state aid applicable to the former city or the county for a specified period of time. The *Code* initially stipulated five years, but an amendment in 2000 increased the "hold harmless" provision to fifteen (15) years.

### **County Disadvantages**

The principal disadvantage of reversion from the county's perspective is a shifting of service responsibilities to the county, resulting in increased fiscal stress. Expenditures for public education constitute the majority of any local government's budget. Also, the increased property tax base may adversely affect state funding for education since assessed values are used to calculate the state and local share of school funding. In addition to shifting costs for public education to the county, significant funding obligations for constitutional officers, and human services also are shifted to the county. Human service needs are significant in cities because population centers attract a higher percentage of the unemployed, under-employed, at-risk children and families, and the elderly. Additional costs for services to town residents are not offset by the additional tax revenue generated, resulting in county residents subsidizing the former city. There are loopholes in the "hold harmless"

funding provision in the *Code of Virginia*. Multiple opportunities for the use of administrative discretion by state agencies exist to the detriment of the county. Additionally, the Appropriations Act approved by the General Assembly takes precedence over statutory provisions. This adds a certain degree of uncertainty to the "hold harmless" funding.

In addition, there may be conflicting interests between the town and county, creating tension. The needs of urban residents may be significantly different from rural residents, putting the Board of Supervisors in an awkward position since they represent both.

### **City of South Boston – County of Halifax Case Study**

The City of South Boston was incorporated as a town in 1884 and became an independent city in 1960. The city was a former city of the second class, meaning that it shared three of five constitutional officers with the county: Clerk of Court, Commonwealth's Attorney, and Sheriff. The city shared the court system and a partially consolidated school system with the county. The 1990 Census reported a population of 6,997 residents in a land area of 5.09 square miles. Halifax County was formed in 1752. The 1990 Census reported a population of 29,033 residents in a land area of 803 square miles.

On December 28, 1990, the City of South Boston filed notice of its intention to revert to town status in Halifax County. The city and county had been negotiating periodically since 1986 without reaching agreement on alternative ways to restructure local government, including discussions on consolidation. Restoration of annexation authority was the city's principal motivating factor in seeking reversion. The city viewed reversion as the only viable option to grow and expand its tax base since there was a moratorium on city-initiated annexations. The South

Boston reversion was the first such action under the 1995 reversion statute and raised legal issues and other concerns that had not been previously addressed.

The South Boston reversion was vigorously contested by Halifax County. The dispute focused on whether reversion would substantially impair the county's ability to serve the needs of its citizens, the equitable sharing of resources and liabilities, and future interests of the county. The principal opposition by the county was in combining the already partially merged school systems. Both localities operated a joint junior high and high school, in addition to sharing a superintendent of schools. Both localities operated independent elementary schools. The county's concern related to perceived adverse fiscal impact of reversion. The other significant obstacle related to the county's use of the city's water and wastewater infrastructure. The county wanted one million gallons per day (mgd) reserved capacity in the city's water and wastewater treatment plants, which essentially was the remaining capacities without an expansion. The city argued that customers in the county consumed approximately 60% of all potable water produced by the city and generated approximately 54% of the wastewater treated by the city. Further, the city argued they had never refused to make water and wastewater connections available upon request by Halifax County.

In accordance with the reversion statute, the Commission on Local Government (COLG) conducted a review and issued a written report containing its finding of fact and recommendation to the special court, which subsequently reviewed the reversion action. The COLG noted that both localities experienced above average fiscal stress relative to all counties and cities in Virginia. The COLG also noted that Halifax County as of 1989 had an effective true real property tax rate of thirty-four cents, which was lower than all but three of Virginia's 136 counties and cities. The COLG concluded reversion would have relative modest adverse fiscal consequences on Halifax County. The COLG found nothing to suggest an incompatibility of the two jurisdictions such that

the interests of either would be adversely affected by the proposed reversion. The COLG subsequently recommended the special court authorize the reversion.

The special court rendered its decision in 1992 and the city appealed the terms and conditions of the court's final reversion order to the Virginia Supreme Court, arguing that the court had abused its discretion in the matter. The Supreme Court agreed and struck the following offending terms and conditions identified by the city:

- The special court did not have the power to require localities, under threat of sanction, to reach an agreement between themselves about how water and wastewater capacity should be allocated.
- The special court did not have the power to interfere with an express legislative delegation of authority to municipalities to regulate their own rates and charges for water and wastewater services.
- The requirement that South Boston maintain its then-existing level of services indefinitely, regardless of any change in demand or other circumstances, was likely to impair the new town's ability to provide needed services for its residents.
- The Supreme Court found no language in the reversion statute that authorized the special court to divest the town of its express, statutorily right to annex.

On July 1, 1995, after more than three years of litigation, three court rulings, and millions expended in legal fees, South Boston became a town.<sup>25</sup>

Mr. Gary Christie, South Boston City Manager from 1989 until July 1, 1995, and Town Manager for six months after reversion, was interviewed by telephone on February 26, 2002, to gain insight into the reversion process. Mr. Christie currently serves as Executive Director of the Rappahannock - Rapidan Regional Commission. He considered South Boston's circumstances

unusual in that restoration of annexation authority was the principal motivating factor in pursuing reversion. Reducing fiscal stress was a secondary factor.

His analysis of the process concluded that cities do not have an advantage over counties in reversion; the process is properly balanced. He views reversion as non-detrimental to counties. According to Mr. Christie, the statute promotes reversion and courts are not likely to support counties' opposition and counties should recognize this fact. Halifax County refused to compromise and negotiate a settlement agreement, resulting in an adversarial process. While South Boston spent a considerable amount of money on legal fees, studies, and expert witnesses in pursuing the reversion, he viewed the expenditures as a good investment in South Boston's future.

Reversion advantages cited, in addition to restoring annexation authority and relieving fiscal stress, included sharing of more resources and promotion of cooperation. Disadvantages included adding another layer of government for town residents and loss of autonomy.

The one process improvement discussed by Mr. Christie concerned streamlining the process. In a contested reversion, the Commission on Local Government is not particularly helpful or effective and allowing jurisdictions to go straight to the special court may expedite the process.<sup>26</sup>

Mr. Dan Sleeper, Halifax County Administrator from 1992-2000, also was interviewed at his office on February 11, 2002, to gain insight about the reversion process. Mr. Sleeper currently serves as County Administrator of Pittsylvania County. Mr. Sleeper stated "The reversion process offers no advantages to a county. The reversion statute was written to favor cities and there should be more balance in the process." He stated the special court attempted to make the process fair by including certain terms and conditions in their initial order that was later overturned by the Virginia Supreme Court. The Supreme Court declined to delve into the realm of legislative history and intent

of the reversion statute and issued a ruling based strictly on statutory construction. Mr. Sleeper favored retaining the special court in the reversion process.

He indicated that the city and county had spent a combined total of approximately \$3 million dollars on legal fees, studies, and expert witnesses. Recognizing that the process favors a city, he subsequently encouraged the county to negotiate a voluntary settlement agreement concerning a boundary adjustment with the town instead of pursuing litigation.

Even though the process was adversarial, Mr. Sleeper viewed the reversion easier to accomplish in South Boston/Halifax than in many other areas because the city and county already had a partially merged school system with a shared superintendent. Reversion was also easier because the city and county shared three constitutional officers: Clerk of Court, Commonwealth's Attorney, and Sheriff.

While adamant that reversion shifted costs to the county without adequate revenue to pay for the services, the "hold harmless" agreement helped Halifax County. The Clover Power Plant was constructed at a cost of more than one billion dollars and became operational during the "hold harmless" period, resulting in additional tax revenue of approximately \$3.7 million per year to the county. The five-year "hold harmless" provision helped maintain the lower school composite index for a period of time, resulting in a financial advantage to the county. The local share of school funding is based in part on the total value of taxable real property in the jurisdiction. The taxable value of the power plant exceeded the total taxable value of all other real estate in the county.<sup>27</sup>

#### **City of Clifton Forge – County of Alleghany Case Study**

The City of Clifton Forge was incorporated as a town in 1884 and became an independent city in 1906. The City was a first-class city, maintaining a separate court system and five

constitutional officers: Clerk of Court, Commonwealth's Attorney, Sheriff, Treasurer and Commissioner of Revenue. Clifton Forge and Alleghany County have operated a joint school system since 1982. The city experienced a continuing loss of population and confronted fiscal difficulties in recent years. The 1990 Census reported a population of 4,679 residents in a land area of 3.17 square miles. Alleghany County was formed in 1822. The 1990 Census reported a population of 13,176 residents in a land area of 444.7 square miles.

On November 8, 1999, the City of Clifton Forge filed notice of its intent to revert to town status in Alleghany County. Jurisdictions in the Alleghany Highlands had studied the restructuring of local government through consolidation since 1980. A referendum to consolidate the Cities of Covington and Clifton Forge with Alleghany County failed to pass in 1987. The referendum passed overwhelmingly in Clifton Forge and Alleghany County, but failed in Covington. A subsequent referendum to consolidate Clifton Forge and Alleghany County failed in 1991, with a majority of Alleghany County voters voting against consolidation. Faced with increasing fiscal stress that would become exacerbated with the city's obligation to pay a portion of the capital costs of the joint school systems' new elementary and middle school, the city opted to pursue reversion after changes in the make-up of city council to a majority of pro-town councilors. Fiscal stress was the city's principal motivating factor in seeking reversion.

The Clifton Forge reversion was the second and most recent reversion. Actually Clifton Forge's interest in restructuring local government was the impetus for the state reversion statute enacted in 1998. The Clifton Forge reversion resulted in a voluntary settlement agreement wherein Clifton Forge became a town and retained responsibility for public safety, water and wastewater service, maintenance of streets and roads, public planning/land development control, recreation, and libraries. The county became responsible for public education, health, social services, mental health,

retardation, and substance abuse services in addition to the court system, jail, solid waste collection and disposal, elections, and constitutional officers. Certain inter-local agreements were modified or voided by the voluntary settlement agreement. Since both jurisdictions already operated a joint public school system, public education negotiations were limited.

In accordance with the reversion statute, the Commission on Local Government (COLG) conducted a review and issued a written report containing its finding of fact and recommendations to the special court, which subsequently reviewed the reversion action.

The COLG noted that Clifton Forge experienced high fiscal stress and Alleghany County experienced above-average fiscal stress relative to all cities and counties in Virginia. The COLG concluded reversion of Clifton Forge to town status would have a minimal financial impact on the county. The COLG made a point to address one issue in the agreement, which called for Clifton Forge neither to initiate or accept any annexation for a twelve-year period, ten years longer than required by the reversion statute. The COLG questioned if that provision was in Clifton Forge's best interest and strongly encouraged both jurisdictions to consider reducing the moratorium on future boundary expansions by the proposed town.

In 1989, the General Assembly added a special procedural requirement to the reversion process reportedly at the request of the then-Clifton Forge Sheriff. The requirement requires a voter referendum in cities having a population of more than 5,000 but less than 5,900. Based on the 1980 Census, Clifton Forge met this criteria and after the 1990 and 2000 Census, this requirement also applies to the City of Emporia. A referendum was held on March 6, 2001 and resulted in a record voter turnout of 66% of the City's 2,559 registered voters. Clifton Forge voters approved reversion to town status on a 1,071 to 617 margin. The special court approved the voluntary settlement agreement and Clifton Forge became a town on July 1, 2001.<sup>28</sup>

Mrs. LeeAnna Tyler, Clifton Forge Interim Town Manager, was interviewed by telephone on March 4, 2002, to gain insight about the reversion process. Mrs. Tyler has worked for Clifton Forge since 1989 and prior to being appointed Interim Town Manager, was the Accounting Supervisor for the city. During the period from Clifton Forge's filing of the petition with the Commission on Local Government through reversion, the city did not have a full-time manager, only two interim city managers. Mrs. Tyler's husband was the Sheriff of Clifton Forge, whose job was terminated upon reversion to town status. Ms. Tyler stated Clifton Forge pursued reversion because of fiscal stress and, prior to reversion, the city was facing an approximately twenty cent real estate tax increase to pay debt service on new schools and infrastructure improvements. The city had a tax rate of \$1.33 per \$100 assessed value at the time, reported to be one of the highest in Virginia. Beyond reducing fiscal stress, she stated other things had not changed much since reversion. There has not been significant loss of services, but there has been a loss of convenience for town residents. An example cited was access to records in the Clerk of Court's office. Residents must now drive to the County Clerk's office in Covington to access those records. This is a particular inconvenience in a community of retired, older residents, many of whom do not drive.

Clifton Forge had hoped the county would embrace the town but, in her opinion, that had not occurred. The town and county have been at odds with one another working through the reversion transition, and it appears that the town has little influence in county affairs. There has been a significant problem in transitioning personal property taxes. The town planned to abolish its personal property tax levy but after realizing that the town could get essentially "free money" from the state's personal property tax relief program, decided to leave the levy in place. Complicating the situation is the fact that the levy is based on property owned as of January 1st of each year and Clifton Forge was a city for six months and a town for six months. The county taxed Clifton Forge

residents for the entire year without clear legal authority to do so. Legislation was introduced in the 2002 General Assembly to clarify the personal property tax billings. Unless changed, town residents will pay approximately double the amount of personal property taxes; however, other town taxes have decreased to a level that will more than offset the personal property tax rate.

Mrs. Tyler stated the “hold harmless” funding provision is helpful, but localities have to monitor the state funding carefully to assure they are receiving the correct appropriation. The reversion resulted in no loss of jobs by former city employees, but some employees of constitutional officers and social services lost their jobs. The constitutional officers also lost their jobs; however, the Clifton Forge Commissioner of Revenue was employed by the County Commissioner. A bill was considered by the General Assembly to offer unemployment benefits to elected officials who lose their jobs as a result of reversion. The bill did not pass.

During years of debate about reversion, the city council changed from pro-town to pro-city and then back to pro-town. There were informational meetings concerning the reversion referendum to be considered by the voters and both proponents and opponents of reversion hired public relations firms to assist. Mrs. Tyler stated that reversion had been debated so long that “many residents were just worn down and wanted to vote on town reversion and move on”.

A recommendation offered by Mrs. Tyler to improve the process was a greater emphasis on pre-planning. Some pre-planning was done, but more could have been done by the city and county to work out the details of the transition. “More pre-planning would probably have averted many conflicts during the transition.”<sup>29</sup>

Mrs. Tammy D. Stephenson, Allegheny County Administrator, was interviewed at her office in Allegheny County on February 12, 2002, to gain insight into the reversion process. Mrs. Stephenson stated that Allegheny County knew that Clifton Forge was anxious to revert to town

status to avoid its share of capital costs for two new schools in the jointly operated school system. Alleghany County approached the negotiations with Clifton Forge knowing that the reversion statute favored cities and it would be in the county's best interest to negotiate a voluntary settlement agreement. The county used its part-time County Attorney to assist with the process and Clifton Forge employed special counsel. Ms. Stephenson stated the process would have worked better if the attorneys had been involved later in the process; the managers could have come to a consensus on the issues more easily and the attorneys could have crafted the legal agreement in the proper form. In retrospect, she stated that details about services and minor issues such as transfer of refuse collection vehicles should have been detailed in the agreement to avoid conflicts during transition.

Alleghany County viewed reversion as offering some economies of scale to the county. One example cited was the county's Erosion and Sediment Control Ordinance enforcement. Transitioning the city's building inspector to the county provided additional staff to enhance the code enforcement program. The reversion also resulted in a net staff increase for some of the county's constitutional officers.

The one major point of contention in negotiations involved water and wastewater service. Clifton Forge did not want to negotiate additional water and wastewater treatment service. The county was a major water and wastewater customer of the city. Service fees, not capacity, were the principal issues involving water service. Alleghany and Clifton Forge were already operating under a consent order involving needed wastewater system improvements. Alleghany favored creating a regional authority to manage wastewater issues; however, Clifton Forge wanted to maintain its own wastewater service. Clifton Forge agreed as a part of the voluntary settlement agreement not to pursue annexation of county land for twelve years. This was important to Alleghany because the county and the Town of Iron Gate were planning to jointly pursue wastewater improvements and

they wanted to protect their customer base to ensure revenue capacity for debt service. The special court questioned if the annexation waiver was in Clifton Forge's best interest. The water and wastewater negotiations necessitated involving a mediator appointed by the COLG, which resulted in an agreement both jurisdictions felt they could accept. Mrs. Stephenson stated that involving a mediator earlier in the process probably would have been helpful.

Allegheny County viewed reversion as having a negative financial impact on the county and successfully lobbied the General Assembly to extend the "hold harmless" provision from five to fifteen years. Originally, they requested a twenty year "hold harmless" provision. Even at fifteen years, she believes the "hold harmless" agreement is not a particularly effective financial incentive for counties. It was reported that the COLG made promises, in good faith, for state agencies that they could not keep. She believes it would be helpful to get state agencies involved in funding county services earlier and get written commitments from each agency.

Allegheny County viewed the special court as being of limited assistance on the process; however, the COLG was viewed as being particularly helpful. She also stated the reversion process may be too long. Governing bodies and other elected officials change resulting in a required re-education process. The reversion of Clifton Forge was reported to have positively changed the county's relationship with the City of Covington. Instead of three independent governments in the community, now only two exist.<sup>30</sup>

### **Observations and Process Improvements**

All processes can be improved and reversion is no exception. Considering that the reversion option has been utilized only twice, there is a limited amount of data on which to make recommendations for improvements. The General Assembly saw a need to modify the process on

several occasions and more mid-course corrections will surely occur. Research, interviews, and the two case studies provided the foundation for my observations and recommendations for process improvements.

The general consensus is that the reversion process can be streamlined and shortened. There is no consensus on how to effect such a change. Some advocate eliminating the special court and empowering the Commission on Local Government (COLG) to rule on reversion issues. Advocates for the COLG stated that both generally reach the same conclusion and this would shorten the time frame and reduce costs. The case studies indicated that in contested reversions, the special court was preferred; in the voluntary settlement agreement, the COLG was favored. A change to require only the special court on a contested reversion may be a viable option.

Currently, only cities with a population of less than 50,000 are eligible to revert to town status. This provision makes twenty-eight (28) cities eligible. A list of those cities is contained in the Appendix. Larger cities have expressed interest in reversion. Extending eligibility to all cities would add eleven cities to the list. Some cities are not surrounded by counties so a mechanism to allow reversion of a city to town status within another city would have to be considered. For example, the City of Norfolk is surrounded by the cities of Virginia Beach, Chesapeake, Portsmouth, and Hampton. Both of these recommendations would likely generate significant debate and opposition by counties and cities that perceive an adverse impact. Since the General Assembly is becoming increasingly dominated by suburban counties, I believe this is unlikely to happen.

There needs to be more balance in the reversion process, a finding of middle ground. By design, cities have too much power over the reversion process. They can accept or reject town status on the terms and conditions imposed by the court; however, the county is powerless to reject acceptance of town status. Two recommendations are offered for consideration to provide more

county equity in the process. First, grant the county receiving the former city as a town the same taxing authority as the former city. This will allow greater flexibility to provide necessary services and will likely be viewed by counties as a significant incentive. Also, require the town to share its utility infrastructure with the county to the extent of its capacity and at a fair market price. This will also likely be viewed by counties as an incentive and will promote future development either in the town or in the immediate area surrounding the town, relieving pressure on the county to develop cost prohibitive infrastructure in rural areas.

Regardless if the reversion is contested or a voluntary settlement, both the city and county should do their best to negotiate the terms and conditions to avoid litigation, which adds considerable time and expense to the process. It was reported that the South Boston/Halifax contested reversion resulted in approximately \$3 million in legal fees, consultant studies, and expert witnesses. Counties should recognize and accept that the *Code of Virginia* favors allowing cities to revert to town status and negotiate accordingly.

The Clifton Forge/Alleghany case study revealed using an independent mediator appointed by the COLG was very helpful in negotiating and resolving a particular issue in their agreement. A mediator was appointed in South Boston/Halifax, but apparently was not effectively utilized. Providing an independent professional facilitator experienced in local government to assist the city and county in their negotiations could enhance the process. The facilitator should be appointed by the COLG upon receipt of the notice of intention to revert from a city to town status. The city and county should be encouraged to utilize the facilitator throughout the process.

Considerable financial incentives should be made available if the Commonwealth truly wants to promote reversion. A Consolidation Incentive Fund was created to promote consolidation of local

government entities. The fund, now known as the Regional Competitiveness Act, is not adequately structured or funded to promote reversion.

The “hold harmless” provisions for state funding are helpful but inadequate. The primary funding streams that should be addressed are those dedicated to public education, human services, and funding for constitutional officers. The Department of Education has two options available to determine the composite index for a county after reversion. The most favorable composite index for the county should be specified by statute. Special language was placed in the appropriations act to allow the Compensation Board to bypass the priority list in funding constitutional officers after reversion. Previously, the “hold harmless” provision only applied if the constitutional officer’s request was ranked high enough to be funded on the list of state priorities. Codification of the language in the appropriations act into the *Code of Virginia* may help avoid confusion in funding of constitutional officers after reversion. The case studies revealed that even though “hold harmless” provisions are in the *Code*, localities felt they had to fight for every dollar the law specified they were entitled to. If the General Assembly is serious about financial incentives for reversion, they must ensure that the Appropriations Act contains sufficient appropriations to fulfill their commitment.

It is too early to determine the true financial impact of the South Boston and Clifton Forge on Halifax and Alleghany Counties, respectively. An independent in-depth quantitative financial analysis should be completed at a later date to measure the impact.

Several recommendations are offered to clarify emerging issues not addressed in the reversion statute. The General Assembly should clarify options if a city is surrounded by multiple counties in a contested reversion to avoid the possible splitting of communities of interest. Also, the

General Assembly should statutorily define the role of petitioners, if any, in a citizen-initiated reversion.

Particular attention should be given to avoid violation of federal and state laws relating to dilution of minority voting strength and other pertinent issues in re-drawing electoral districts. Research, interviews, and case studies, however, did not reveal that minority concerns have been an insurmountable issue in the two previous reversions.

Research indicated that it is important in the process to follow not only the spirit, but also the letter of the law. The citizen-initiated reversion petition in Charlottesville illustrated this point. The special court dismissed the reversion petition because the petition had not been served on the affected local governments and the Commission on Local Government as specified by the *Code of Virginia*.

Effective communication is an essential ingredient in any process. Rumors and incorrect information can spread quickly. The reversion process is lengthy and complex. Communication with citizens should start at the beginning of the process and continue throughout.

Since the reversion statute was passed by the General Assembly in 1988, it has been amended numerous times. Some amendments made reversion more favorable; others made it more difficult. If the statute needs to be amended to make reversion more attractive for a locality, it is probably worth the effort to have a bill introduced requesting the legislative change. The General Assembly has demonstrated the willingness to amend the statute based on the special needs of cities and counties.

The cost of remaining an independent city is growing as the years pass. Cities should view reversion from the perspective, "Is independence cost-effective?" If reversion is a viable option, it is

probably advisable to begin the process when the city can negotiate from a position of strength. If a city waits until fiscal stress forces the issue, few concessions may be gained from the county.

Much can be learned from the two communities that have experienced the reversion process. Review of existing literature on reversion is also important. For communities considering reversion, it is strongly encouraged that elected and appointed officials, residents, and others from the two communities that experienced reversion be contacted to gain insight about the process. My experience revealed those individuals are willing to share valuable information with others interested in the process.

After reversion to town status is approved by the special court, it may be helpful for the city and county to appoint a transition team composed of affected city and county departments to work out details not specified in the court order or voluntary settlement agreement. The Clifton Forge/Alleghany agreement was fourteen pages long and omitted numerous details concerning the transition. Conflicts can be minimized by a well thought-out transition plan negotiated and agreed to by both the city and county.

The two previous reversions involved some of the smaller cities in Virginia. South Boston had a partially merged school system, shared courts, and three of five constitutional officers were shared with the County. Clifton Forge operated a joint school system with Alleghany County. It will be considerably more difficult for a full-service city operating an independent school system to revert to town status. Agreement on providing public education will be the biggest obstacle in negotiations.

The area of intergovernmental relations, whether it is consolidation, boundary adjustments, annexation, or reversion, has prompted a number of attorneys to specialize in this area. If a locality is considering action in this area, it may be prudent to obtain counsel experienced in these matters.

Reversion appears to revolve primarily around the issue of fiscal stress. Even restoration of annexation authority involves relieving fiscal stress by allowing a locality to grow. In both case studies, the cities and counties conducted analysis and generated financial reports bolstering their respective positions. Many of these financial projections were made by professional financial advisors. Changing assumptions will change financial projections. It is difficult to determine the financial impact of reversion. In my opinion, reversion is fiscally advantageous to cities. County impact is more difficult to predict; however, I believe the fiscal impact is negative. Certainly reversion does not result in a financial windfall for a county.

### *Conclusions*

Communities are economically and socially inextricably linked to one another. Alexis de Tocqueville observed that Americans considered the custom of strong local governments to be one of the primary explanations for the nation's power and prosperity.<sup>31</sup> Virginia's local government structure has stood the test of time so far; however, challenges in service delivery are increasing exponentially. The unique, anachronistic and debilitating structure coupled with an agrarian structured tax system requires significant changes to meet the opportunities of the future.

It is apparent that the General Assembly does not have the political will to undertake a major restructuring of Virginia's local government. That is unlikely to change as the legislature becomes increasingly dominated by suburban counties that view city growth occurring at the expense of counties. Cities and counties must learn to work together and modify options available to them to create growth opportunities for both. City reversion to town status is a viable option for restructuring local government in Virginia. The process can be modified and improved upon to make it more attractive to both cities and counties.

The observations and recommendations for improvement I offer for consideration include:

- Streamlining the process.
- Consider extending eligibility to larger cities and cities surrounded by cities.
- Add county balance to the process by increasing taxing authority and require sharing of the utility infrastructure.
- Negotiate, don't litigate, terms and conditions.
- Use a facilitator and transition teams.
- Provision of significant financial incentives by the Commonwealth.
- Conduct an in-depth quantitative analysis of the two previous reversions.
- Address emerging issues such as multiple receiving counties and the role of petitioners, if any, in a citizen-initiated reversion.
- Pay particular attention to electoral issues.
- Follow not only the spirit but the "letter of the law."
- Ensure effective communications for all involved in the process.
- Request legislative changes to the statute, if necessary.
- Talk with communities experienced with the process.
- Reversion of a full-service city with an independent school system will be considerably more difficult than previous reversions.
- If considering reversion, it may be prudent to obtain legal counsel experienced in the process.
- "Hold harmless" provisions for state funding are helpful but inadequate. A locality may have to aggressively pursue funding to which they are entitled.

- If considering reversion, initiate the process when you can negotiate from a position of strength.
- Reversion is probably fiscally advantageous to cities. The county impact is probably more difficult to predict, but it does not result in a financial windfall for a county.

Notes

- <sup>1</sup>Bain, Chester W. (1967) A Body Incorporate. The Evolution of City-County Separation in Virginia, 23.
- <sup>2</sup>Commission on Local Government, Commonwealth of Virginia. Information from Commission files.
- <sup>3</sup>Interview with Mr. Ted McCormack, AICP, Deputy Director of Commission on Local Government, Commonwealth of Virginia, January 31, 2002.
- <sup>4</sup>Report of the Local Government Attorneys Association of Virginia, Inc. (1988). The Need to Review Virginia's Local Government Structure. Charlottesville, Virginia. 2.
- <sup>5</sup>Ibid. 2.
- <sup>6</sup>Bain, Chester W. (1967) A Body Incorporate. The Evolution of City-County Separation in Virginia. 39-40.
- <sup>7</sup>Virginia County Supervisors Manual. Sixth Edition (1998). Virginia Association of Counties. 1-2.
- <sup>8</sup>Howard, A. E. Dick. (1974). Commentaries on the Constitution of Virginia. 819-821.
- <sup>9</sup>Ibid. 795.
- <sup>10</sup>Monday, E. H. (April 1995). University of Virginia's Newsletter. Weldon Cooper Center for Public Service. To Be Or Not To Be, Municipal Reversion and the Future of Virginia's Cities, Vol. 71, No. 4. 2.
- <sup>11</sup>Virginia County Supervisors Manual. Sixth Edition (1998). Virginia Association of Counties. 2-10.
- <sup>12</sup>Rockingham v. Harrisonburg. 224 Va. 62; 294 S.E. 2d 825; 1982 Va. Lexis 272.7.
- <sup>13</sup> Interview with Mr. Ted McCormack, AICP, Deputy Director of Commission on Local Government, Commonwealth of Virginia, January 31, 2002.
- <sup>14</sup>Commission on Local Government, Commonwealth of Virginia. Information from Commission files.
- <sup>15</sup>Code of Virginia of 1950, as amended. §15.2-2900 to §15.2-2908.
- <sup>16</sup>HJR432 Commission on the Condition and Future of Virginia's Cities. Retrieved from <http://dls.state.va.us/pubs/legisrec/1998/HJR432A.htm>. 2.
- <sup>17</sup>MacLean, Adele. (August 1996). Reversion From Cities To Towns. Virginia Municipal League. 2.
- <sup>18</sup>Interview with Mr. Ted McCormack, AICP, Deputy Director of Commission on Local Government, Commonwealth of Virginia, January 31, 2002.
- <sup>19</sup>Lucy, et al. v. County of Albemarle. Retrieved from <http://www.valawyersweekly.com/vasup/1980770htm>. 8.
- <sup>20</sup>Rish, Robert L. and Ostrom, Vincent. (1973) Understanding Urban Government: Metropolitan Reform Reconsidered. 95.

- <sup>21</sup>Code of Virginia of 1950, as amended. §15.2-4100 to §15.2-4120.
- <sup>22</sup>Interview with Mr. Ted McCormack, AICP, Deputy Director of Commission on Local Government, Commonwealth of Virginia, January 31, 2002.
- <sup>23</sup>Commission on Local Government, Commonwealth of Virginia. Information from Commission files.
- <sup>24</sup>Interview with Mr. Ted McCormack, AICP, Deputy Director of Commission on Local Government, Commonwealth of Virginia, January 31, 2002.
- <sup>25</sup>Commission on Local Government, Commonwealth of Virginia. (1992). Report on the City of South Boston – County of Halifax Reversion Issue.
- <sup>26</sup>Interview with Mr. Gary Christie, Former City Manager of South Boston, 1989-1996, February 26, 2002.
- <sup>27</sup>Interview with Mr. Dan Sleeper, Former County Administrator of Halifax County, 1992-2000, February 11, 2002.
- <sup>28</sup>Commission on Local Government, Commonwealth of Virginia. (October 2000). Report on the City of Clifton Forge – County of Alleghany Voluntary Settlement Agreement.
- <sup>29</sup>Interview with Mrs. LeeAnna D. Tyler, Interim Town Manager of Clifton Forge, March 4, 2002.
- <sup>30</sup>Interview with Mrs. Tammy P. Stephenson, County Administrator of Alleghany County, February 12, 2002.
- <sup>31</sup>Howard, A. E. Dick. (1974). Commentaries on the Constitution of Virginia. 781.

Appendix

Cities Eligible for Reversion

CITY	2000 POPULATION	AFFECTED COUNTY	2000 POPULATION	POST- REVERSION		FORMER CITY AS % OF ENLARGED COUNTY	
				POPULATION	COUNTY	POPULATION	COUNTY
BEDFORD	6,299	BEDFORD	60,371	66,670	9.45%		
BRISTOL	17,367	WASHINGTON	51,103	66,470	25.36%		
BUENA VISTA	6,349	ROCKBRIDGE	20,808	27,157	23.36%		
CHARLOTTESVILLE	45,049	ALBEMARLE	79,236	124,285	36.25%		
COLONIAL HEIGHTS	16,897	CHESTERFIELD	259,903	276,800	6.10%		
COVINGTON	6,303	PRINCE GEORGE	33,047	49,944	33.83%		
DANVILLE	48,411	ALLEGHANY	12,926	19,229	32.78%		
EMPORIA	5,685	PITTLYSVANIA	61,745	110,156	43.95%		
FAIRFAX	21,498	FAIRFAX	989,749	991,247	32.89%		
FALLS CHURCH	10,377	ARLINGTON	189,453	199,830	2.17%		
FRANKLIN	8,346	FAIRFAX	989,749	980,126	5.19%		
FREDERICKSBURG	19,279	ISLE OF WIGHT	29,728	38,074	21.92%		
		SOUTHAMPTON	17,482	25,828	32.31%		
		SPOTSYLVANIA	90,395	109,674	17.58%		
		STARFORD	92,446	111,725	17.26%		
GALAX	6,837	CARROLL	29,245	36,082	18.95%		
		GRAYSON	16,881	23,718	28.83%		
HARRISONBURG	40,468	ROCKINGHAM	67,725	108,193	37.40%		
HOPEWELL	22,354	CHESTERFIELD	259,903	282,257	7.92%		
		PRINCE GEORGE	33,047	55,401	40.35%		
		ROCKBRIDGE	20,808	27,675	24.81%		
LEXINGTON	6,867	PRINCE WILLIAM	280,813	315,948	11.12%		
MANASSAS	10,290	PRINCE WILLIAM	280,813	291,103	3.53%		
MANASSAS PARK	15,416	HENRY	57,930	73,346	21.02%		
MARTINSVILLE	3,904	WISE	41,159	45,063	8.66%		
NORTON	33,740	CHESTERFIELD	259,903	293,643	11.49%		
PETERSBURG		DINWIDDIE	24,533	58,273	57.90%		
		PRINCE GEORGE	33,047	66,787	50.52%		
POQUOSON	11,586	YORK	56,297	67,863	17.04%		
RADFORD	15,859	MONTGOMERY	83,629	99,488	15.94%		
		PULASKI	35,127	50,986	31.10%		
SALEM	24,747	ROANOKE	85,778	110,525	22.39%		
STAUNTON	23,853	AUGUSTA	65,615	89,468	26.66%		
WAYNESBORO	19,520	AUGUSTA	65,615	85,135	22.93%		
WILLIAMSBURG	11,998	JAMES CITY	48,102	60,100	19.96%		
		YORK	56,297	68,295	17.57%		
WINCHESTER	23,585	FREDERICK	59,209	82,794	28.49%		

Staff, Commission on Local Government, July 1, 2001

**VIRGINIA CITIES ELIGIBLE TO REVERT TO TOWN STATUS ACCORDING TO 2000 CENSUS**

**NOTE:**

Eligibility for Transition of City to Town Status [§15.2-4101, Code of Va.]: Any city with a population at the time of the latest United States decennial census of less than 50,000 persons may petition the circuit court for an order granting town status to the city.

However, Chapter 688, Acts of the Assembly, 1989 provides that before a court can grant town status to any city having a population of more than 5,000 but less than 5,900 persons, a referendum on the question of town status must be held in the affected city. Based on the 1980 Census, only the City of Clifton Forge met that criteria, but the City of Emporia also met that criteria based on the 1990 Census. No additional cities qualified as a result of the 2000 Census.

South Boston in Halifax County reverted to town status on July 1, 1995.

Clifton Forge in Alleghany County reverted to town status on July 1, 2001.

Change #1 dated 12/07/01 for Grayson and Wise Counties

Virginia Reversion Statute

REVERSION OF A CITY TO TOWN STATUS  
CHAPTER 41, TITLE 15.2

(Incorporates changes through the 2001 General Assembly Session)

I. MUNICIPALLY-INITIATED REVERSION

A. Eligibility

1. Any city with a population of less than 50,000 persons at the time of the latest decennial census may revert to town status under the provisions of this chapter.
2. Special procedural requirements apply to cities having a population of more 5,000 but less than 5,900 persons. (See Ch. 688, Acts of the Assembly, 1989.)

B. Procedure for Initiating Action

(Sec. 15.2-2907, Code of Va.)

1. Prior to petitioning the circuit court for review of a proposed reversion action, the city must first notify the Commission on Local Government of its intention to make the transition from city to town status.

C. Proceedings of the Commission on Local Government

(Sec. 15.2-2907, Code of Va.)

1. Upon receipt of the notice of the reversion action, the Commission shall meet with representatives of the city and the affected county and schedule a review of the proposed reversion. Such review shall include oral presentations and a public hearing in the affected jurisdictions to afford all interested parties an opportunity to present evidence and to offer comment on the proposed reversion.
2. At the conclusion of its review, the Commission shall submit a written report containing its findings of fact and recommendations with respect to the proposed reversion to the affected local governments and to the special three-judge court that subsequently must review the proposed reversion.
  - a. The Commission's review of the proposed reversion must be based upon the criteria and standards established for review of such actions as set forth in Section 15.2-4106, Code of Virginia.
  - b. The Commission's report is advisory in nature and is not binding on the special three-judge court. The report, however, must be considered in evidence in any subsequent court proceeding.

D. Action by the City Governing Body

(Secs. 15.2-4101 and 15.2-4102, Code of Va.)

1. Following the completion of the Commission's review, the city may, if it opts to pursue the proposed reversion, petition the circuit court of the city by ordinance for an order granting the municipality town status.
2. The city must also serve the appropriate county officials with notice of its intended action, including a copy of the reversion ordinance, and it must publish the notice and ordinance as required by Section 15.2-4101, Code of Virginia.

**Reversion to Town Status**  
**Page 2**

**D. Action by the City Governing Body (continued)**

3. Upon receipt of the petition from the city, the local circuit court judge will request the Virginia Supreme Court to convene a special three-judge panel pursuant to Chapter 30, Title 15.2, Code of Virginia.

**E. Proceedings of the Special Court**

(Secs. 15.2-4106 and 15.2-4111, Code of Va.)

1. In order for the special three-judge court to approve the proposed reversion it must determine that:
  - a. The city has a current population of less than 50,000 persons;
  - b. The proposed transition of the city to town status will not substantially impair the ability of the affected county to meet the service needs of its population;
  - c. The proposed transition of the city to town status will not result in an inequitable sharing of the resources and liabilities of the town and the affected county;
  - d. The proposed transition of the city to town status is, "in the balance of equities," in the best interest of the city, the affected county, the Commonwealth and the people of the county and the city; and
  - e. The proposed transition of the city to town status is in the best interest of the State in promoting strong and viable units of local government.
2. If the court finds that the criteria for reversion have been satisfied, an order will be entered granting the petition for town status.
3. Every order granting town status shall specify the effective date of the transition from city to town status.
  - a. The effective date of transition shall be no sooner than six months from the date of the court order granting town status.

**F. Powers of the Special Court**

(Sec. 15.2-4106, Code of Va.)

1. In order to prevent any substantial inequities for any significant impairment of the ability of the county to meet the service needs of its residents, the special three-judge court has the authority to impose terms and conditions to:
  - a. Ensure an orderly transition from city status to town status;
  - b. Make adjustments for any financial inequities which would otherwise result from the transition of the city to town status;
  - c. Balance the equities between the affected jurisdictions; and
  - d. Ensure the protection of the best interests of the city, the affected county, the Commonwealth and the people of the county and the city.

Reversion to Town Status  
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**G. Enforcement of Court Order**  
(Sec. 15.2-4120, Code of Va.)

1. The special three-judge court remains in existence for 10 years from the effective date of the transition order to effect compliance with the terms and conditions set forth therein.
  - a. The court may be reconvened at any time on its own motion, on the motion of the governing body of the county, the governing body of the town, or on petition of 15% of the voters of the town to enforce performance on the terms and conditions of the transition order.
  - b. The court is granted the authority to enforce the terms and conditions of its order by appropriate process.

**H. Declining to Accept Town Status**  
(Sec. 15.2-4109, Code of Va.)

1. The governing body of a city may decline to accept town status on the terms and conditions imposed by the court. The ordinance or resolution declining town status must be adopted within certain statutorily prescribed time periods.

**I. Limitations on Subsequent Reversion Actions**  
(Sec. 15.2-4110, Code of Va.)

1. If the special three-judge court finds that the city is ineligible for transition to town status or the city governing body declines to accept town status on the terms and conditions imposed by that court, a city must wait five years before filing a subsequent petition requesting reversion to town status.

**J. Limitations on Subsequent Annexation Actions**  
(Sec. 15.2-4117, Code of Va.)

1. A city which reverts to town status cannot institute contested annexation actions for a period of two years following the effective date of transition. The two-year moratorium against such contested annexations would not apply to boundary changes which are components of interlocal agreements.

**K. Limitations on Transition to City Status**  
(Sec. 15.2-4113, Code of Va.)

1. A city which reverts to town status cannot return to its previous independent status.

**L. Town Charter**  
(Sec. 15.2-4112, Code of Va.)

1. If the General Assembly has not granted a new charter for the town prior to the effective date of transition, the special three-judge court shall enter an order conforming the charter of the former city to a town charter.

**Reversion to Town Status**

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**L. Town Charter (continued)**

- a. The charter entered by the court shall remain in effect until a new charter for the town is granted by the General Assembly.

**M. Effect of Reversion to Town Status****1. Disposition of Assets and Liabilities  
(Sec. 15.2-4114, Code of Va.)**

- a. Unless provided by agreement between the former city and the affected county or by the order entered by the special three-judge court, the town remains liable for the indebtedness, obligations, and liabilities of the former city, and all property and contractual rights of the former city shall vest in and become property of the town.

**2. Ordinances and Pending Legal Proceedings  
(Sec. 15.2-4115, Code of Va.)**

- a. All ordinances of the former city shall become ordinances of the town insofar as they are applicable and consistent with statute.
- b. Any judicial proceedings pending against the former city at the time of the transition to town status may be perfected to judgement against the town.

**3. Constitutional Officers  
(Sec. 15.2-4115, Code of Va.)**

- a. The offices of the constitutional officers and their deputies and employees of the former city shall terminate upon the effective date of transition of the city to town status.

**4. General State Aid  
(Sec. 15.2-1302, Code of Va.)**

- a. Under general law provisions, for a fifteen-year period following a consolidation of constitutional officers and school divisions and local school boards, no State funds which are distributed to localities for any "governmental program or function" shall be reduced as a consequence of the consolidation below the aggregate amount which the consolidating local governments would have received had no consolidation occurred. The term "consolidation" is defined to include the reversion of a city to town status.

**5. State Aid to Libraries  
(Sec. 15.2-4116, Code of Va.)**

- a. If the former city participated in a regional library system with the adjoining county or continues to operate an independent library following reversion, for a five-year period the State will continue to fund the independent town library or former regional library as if no transition had occurred.

**Reversion to Town Status**

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**N. Town Officers and Employees**

(Sec. 15.2-4115, Code of Va.)

1. All officers and employees of the former city shall continue to serve the town following the effective date of transition until terminated as provided by law or until their successors are appointed.
2. Members of the governing body of the former city shall remain in office following the effective date of transition to town status until their successors are elected.
  - a. The special three-judge court shall order a special election in accordance with Section 24.2-682, Code of Virginia at least 30 days before the effective date of transition to elect members of the town governing body.

**II. CITIZEN-INITIATED REVERSION****A. Eligibility**

1. The voters of any city with a population of less than 50,000 persons at the time of the latest U. S. Census may petition the circuit court for the reversion of such city to town status.

**B. Procedure for Initiating Action**

(Sec. 15.2-4102, Code of Va.)

1. Citizen petitions requesting the reversion of a city to town status must contain the signatures of 15% of the qualified voters of the city.
2. All signatures on the petitions must have been collected within a 12-month period.
3. The petition must be served on the governing body of the affected city and county and published as required by Section 15.2-4102, Code of Virginia.

**C. Review of Voter-Initiated Reversions**

(Sec. 15.2-4102, Code of Va.)

1. Voter-initiated reversions are subject to the same review by the Commission on Local Government and the special three-judge court as prescribed for city-initiated reversion petitions under the terms of Section 15.2-2907, Code of Virginia.

**D. Declining to Accept Town Status**

(Sec. 15.2-4109, Code of Va.)

1. The governing body of the affected city may decline to accept eligibility for town status awarded as a result of voter-initiated proceedings. The ordinance declining town status must be adopted within certain statutorily proscribed time periods.

Staff  
Commission on Local Government  
March 1, 2001