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SENATE BILL NO. 613

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 10, 2000)

(Patron Prior to Substitute—Senator Wampler)

*A BILL to amend and reenact §§ 32.1-171.2 and 62.1-203 of the Code of Virginia, relating to the Virginia Resources Authority.***Be it enacted by the General Assembly of Virginia:****1. That §§ 32.1-171.2 and 62.1-203 of the Code of Virginia are amended and reenacted as follows:**

§ 32.1-171.2. Water Supply Assistance Grant Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Water Supply Assistance Grant Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated as matching funds for moneys available through the federal Safe Drinking Water Act, all penalties and charges directed to this fund by §§ 32.1-27, 32.1-175.01 and 32.1-176, and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes found in ~~subsection~~ *subsections B and C*. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner at the direction of the Board.

B. The Board shall utilize the moneys appropriated as matching funds for that purpose and, subject to other available funds, may make Water Supply Assistance Grants from the Fund to localities and the owners of waterworks to assist in the provision of drinking water. The Board shall develop guidelines establishing the (i) criteria for grant eligibility, (ii) conditions to be included in grants, and (iii) grant distribution priorities. Among the factors that shall be included in the criteria for grant eligibility and in the grant distribution priorities shall be the financial condition of the locality wherein a grant is sought.

C. *The Virginia Resources Authority is empowered, with the prior approval of the Board and the State Treasurer, to transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, of the Authority. The proceeds from bonds so secured shall be used for water supply projects that have been identified and selected under the guidance of the Board. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth in this subsection and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth in this subsection that are no longer required to be held in trust pursuant to the terms of the pledge.*

D. The Administrative Process Act (§ 9-6.14:1 et seq.) shall not apply to the development of guidelines for the Fund. However, the process for development of the guidelines by the Board shall include (i) the use of an advisory committee composed of interested parties, (ii) a minimum sixty-day public comment period on draft guidelines followed by a public hearing, (iii) written responses to all comments received, and (iv) notice of the availability of draft guidelines and final guidelines to all who request such notice.

§ 62.1-203. Powers of Authority.

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;

2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of

60 the Authority and the conduct of its business;

61 3. To sue and be sued in its own name;

62 4. To have an official seal and alter it at will although the failure to affix this seal shall not affect
63 the validity of any instrument executed on behalf of the Authority;

64 5. To maintain an office at any place within the Commonwealth which it designates;

65 6. To make and execute contracts and all other instruments and agreements necessary or convenient
66 for the performance of its duties and the exercise of its powers and functions under this chapter;

67 7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any
68 part of its properties and assets;

69 8. To employ officers, employees, agents, advisers and consultants, including without limitations,
70 attorneys, financial advisers, engineers and other technical advisers and public accountants and, the
71 provisions of any other law to the contrary notwithstanding, to determine their duties and compensation
72 without the approval of any other agency or instrumentality;

73 9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,
74 against any loss, cost, or expense in connection with its property, assets or activities, including insurance
75 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the
76 indemnification of the members of its Board of Directors and its employees and agents;

77 10. To procure credit enhancements from any public or private entities, including any department,
78 agency or instrumentality of the United States of America or the Commonwealth, for the payment of
79 any bonds issued by the Authority, including the power to pay premiums or fees on any such credit
80 enhancements;

81 11. To receive and accept from any source aid, grants and contributions of money, property, labor or
82 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the
83 conditions upon which the aid, grants or contributions are made;

84 12. To enter into agreements with any department, agency or instrumentality of the United States of
85 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of
86 planning, regulating and providing for the financing of any projects;

87 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other
88 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,
89 including taking the action required by § 15.2-2659 or § 62.1-217 to obtain payment of any sums in
90 default;

91 14. To enter into contracts or agreements for the servicing and processing of local obligations owned
92 by the Authority;

93 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

94 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with
95 respect to the rate of interest, time and payment of any installment of principal or interest, or any other
96 term of any local obligations owned by the Authority;

97 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in
98 connection with any activities or services of the Authority;

99 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably
100 implied by this chapter; and

101 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the
102 Capital Reserve Fund transferred to a trustee for such purpose from the Water Facilities Revolving Fund
103 pursuant to § 62.1-231 or from the Water Supply Revolving Fund pursuant to § 62.1-240 or from the
104 Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-241.9 or from the Virginia
105 Airports Revolving Fund pursuant to § 5.1-30.6 or from the Water Supply Assistance Grant Fund
106 pursuant to § 32.1-171.2.

107 **2. That the provisions of this act shall not become effective until the Environmental Protection**
108 **Agency approves the provisions of this act as they pertain to the Commonwealth's qualifications**
109 **for full funding from the federal government.**

110 **3. That if Senate Bill 616 is passed by the 2000 Session of the General Assembly and signed into**
111 **law by the Governor, the powers, duties, and responsibilities of the Board of Health enumerated**
112 **under § 32.1-171.2 shall be transferred and vested with the Department of Housing and**
113 **Community Development and the Board of Health shall not have any of the powers, duties, or**
114 **responsibilities enumerated under § 32.1-171.2.**