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SENATE BILL NO. 616

Offered January 24, 2000

A BILL to amend and reenact §§ 36-139, 62.1-233, 62.1-234, 62.1-236, 62.1-238, 62.1-239 and 62.1-239.1 of the Code of Virginia, relating to the Virginia Water Supply Revolving Fund.

Patron—Wampler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-139, 62.1-233, 62.1-234, 62.1-236, 62.1-238, 62.1-239 and 62.1-239.1 of the Code of Virginia are amended and reenacted as follows:

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.2-4216.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Comprehensive Housing Affordability Strategy to guide the development and implementation of housing programs in the Commonwealth for the purpose of meeting the housing needs of the Commonwealth and, in particular, those of low-income and moderate-income persons and families.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Comprehensive Housing Affordability Strategy, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Administering the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).

14. Establishing and operating a Building Code Academy for the training of personnel in building regulations promulgated by the Board of Housing and Community Development.

15. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

16. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

17. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

18. Advising the Board on matters relating to policies and programs of the Virginia Housing Partnership Revolving Fund.

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60 19. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
61 Partnership Revolving Fund and to carry out the policies and procedures established by the Board.

62 20. Preparing agreements and documents for loans and grants to be made from the Virginia Housing
63 Partnership Revolving Fund; soliciting, receiving, reviewing and selecting the applications for which
64 loans and grants are to be made from such fund; directing the Virginia Housing Development Authority
65 as to the closing and disbursing of such loans and grants and as to the servicing and collection of such
66 loans; directing the Virginia Housing Development Authority as to the regulation and monitoring of the
67 ownership, occupancy and operation of the housing developments and residential housing financed or
68 assisted by such loans and grants; and providing direction and guidance to the Virginia Housing
69 Development Authority as to the investment of moneys in such fund.

70 21. Advising the Board on matters relating to policies for the low-income housing credit and
71 administering the approval of low-income housing credits as provided in § 36-55.63.

72 22. Establishing and administering program guidelines for a statewide homeless intervention program.

73 23. Administering fifteen percent of the Low Income Home Energy Assistance Program (LIHEAP)
74 Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization
75 and associated services to low-income households within the Commonwealth in accordance with
76 applicable federal law and regulations.

77 24. *Administering the Virginia Water Supply Revolving Fund (§ 62.1-233 et seq.)*

78 24. 25. Carrying out such other duties as may be necessary and convenient to the exercise of powers
79 granted to the Department.

80 § 62.1-233. Definitions.

81 As used in this chapter, unless a different meaning clearly appears from the context:

82 "Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of this
83 title.

84 "Board" means the Board of Health.

85 "Cost," as applied to any project financed under the provisions of this chapter, means the total of all
86 costs incurred as reasonable and necessary for carrying out all works and undertakings necessary or
87 incident to the accomplishment of any project. It includes, without limitation, all necessary
88 developmental, planning and feasibility studies, surveys, plans and specifications, architectural,
89 engineering, financial, legal or other special services, the cost of acquisition of land and any buildings
90 and improvements thereon, including the discharge of any obligations of the sellers of such land,
91 buildings or improvements, site preparation and development, including demolition or removal of
92 existing structures, construction and reconstruction, labor, materials, machinery and equipment, the
93 reasonable costs of financing incurred in the course of the development of the project, carrying charges
94 incurred before placing the project in service, interest on funds borrowed to finance the project to a date
95 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
96 connection with placing the project in service, the funding of accounts and reserves which the Authority
97 may require and the cost of other items which the Authority determines to be reasonable and necessary.

98 "Department" means the Department of Housing and Community Development.

99 "Fund" means the Virginia Water Supply Revolving Fund created by this chapter.

100 "Local government" means any county, city, town, municipal corporation, authority, district,
101 commission or political subdivision created by the General Assembly or pursuant to the Constitution or
102 laws of the Commonwealth or any combination of any two or more of the foregoing.

103 "Noncommunity waterworks" means a waterworks that serves an average of at least twenty-five
104 individuals for at least sixty days out of the year and such individuals are not year-round residents.

105 "Other entities" means owners of waterworks; however, this term does not include the federal
106 government or owners of noncommunity waterworks operated for profit.

107 "Project" means any water supply facility which serves primarily residents of the Commonwealth or
108 which is located or to be located in the Commonwealth. The term includes, without limitation, water
109 supply and intake facilities; water treatment and filtration facilities; water storage facilities; water
110 distribution facilities; related office, administrative, storage, maintenance and laboratory facilities; and
111 interests in land related thereto.

112 "Waterworks" means a system that serves piped water for drinking or domestic use to (i) the public,
113 (ii) at least fifteen connections or (iii) an average of twenty-five individuals for at least sixty days out of
114 the year. The term includes all structures, equipment and appurtenances used in the storage, collection,
115 purification, treatment and distribution of pure water except the piping and fixtures inside the building
116 where such water is delivered.

117 § 62.1-234. Creation and management of Fund.

118 There shall be set apart as a permanent and perpetual fund, to be known as the "Virginia Water
119 Supply Revolving Fund," sums appropriated to the Fund by the General Assembly, all receipts by the
120 Fund from loans made by it to local governments or other entities, all income from the investment of
121 moneys held in the Fund, and any other sums designated for deposit to the Fund from any source public

or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter, subject to the right of the ~~Board~~ *Department*, following consultation with the Authority, to direct the distribution of loans, loan subsidies (including principal forgiveness) or grants from the Fund to particular local governments or other entities and to establish the interest rates and repayment terms and those public health conditions deemed necessary by the ~~Board~~ *Department* of such loans, loan subsidies or grants as provided in this chapter. In order to carry out the administration and management of the Fund, the Authority is granted the power to employ officers, employees, agents, advisers and consultants, including, without limitation, attorneys, financial advisers, engineers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality. However, the Authority shall adopt policies and procedures that minimize the costs of professional services associated with the processing of a loan application and the financing or refinancing of a project, especially in those instances in which the ~~Board~~ *Department* has identified the applicant as "disadvantaged."

The ~~Board~~ *Department* shall reimburse the Authority for its reasonable costs and expenses incurred in the administration and management of the Fund, and the ~~Board~~ *Department* may disburse a reasonable fee, to be approved by the ~~Board~~ *Department*, for the Authority's management services. The ~~Board~~ *Department* may require status reports on the Fund from the Authority.

§ 62.1-236. Annual audit.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor and to the ~~Board~~ *Department*.

§ 62.1-238. Loans to local governments or other entities.

Money in the Fund shall be used solely to make loans or loan subsidies to local governments or other entities to finance or refinance the cost of any project or to establish or fund an endowment fund to assist in the cost of any project. The local governments or other entities to which loans or loan subsidies are to be made, the purposes of the loan or loan subsidy, and the amount of each such loan or loan subsidy, the interest rate thereon and the repayment terms and those public health conditions deemed necessary by the ~~Board~~ *Department* thereof, which may vary between loan recipients, shall be designated in writing by the ~~Board~~ *Department* to the Authority following consultation with the Authority. No loan or loan subsidy from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

Except as set forth above, the Authority shall determine the terms and conditions of any loan or loan subsidy from the Fund, which may vary between local governments or other entities. Each loan shall be evidenced by appropriate bonds, notes, or agreements of the local government or other entity payable to the Fund. The bonds or notes shall have been duly authorized by the local government or other entity and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan or loan subsidy from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions which the Authority may establish, the Authority may require, as a condition to making any loan or loan subsidy from the Fund, that the local government or other entity receiving the loan or loan subsidy covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the loan from the Fund to the local government or other entity; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. With respect to a local government, levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan or loan subsidy from the Fund to the local government;

C. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the loan or loan subsidy from the Fund to the local government or other entity and any other amounts becoming due under any agreement entered into in connection with the loan or loan subsidy, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government or other entity, and deposit into any fund or funds amounts

183 sufficient to make any payments on the loan or loan subsidy as they become due and payable;

184 D. Create and maintain other special funds as required by the Authority; and

185 E. Perform other acts, including the conveyance of, or the granting of liens on or security interests
186 in, real and personal property, together with all rights, title and interest therein, to the Fund, or take
187 other actions as may be deemed necessary or desirable by the Authority to secure payment of the
188 principal of and premium, if any, and interest on the loan or loan subsidy from the Fund and to provide
189 for the remedies of the Fund in the event of any default in the payment of the loan or loan subsidy,
190 including, without limitation, any of the following:

191 1. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security,
192 liquidity arrangements or credit supports for the loan or loan subsidy from any source, public or private,
193 and the payment therefor of premiums, fees or other charges;

194 2. The combination of one or more projects, or the combination of one or more projects with one or
195 more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and
196 the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems
197 to secure the loan or loan subsidy from the Fund made in connection with such combination or any part
198 or parts thereof;

199 3. The maintenance, replacement, renewal and repair of the project; and

200 4. The procurement of casualty and liability insurance.

201 All local governments or other entities borrowing money from the Fund are authorized to perform
202 any acts, take any action, adopt any proceedings and make and carry out any contracts that are
203 contemplated by this chapter. Such contracts need not be identical among all local governments or other
204 entities, but may be structured as determined by the Authority according to the needs of the contracting
205 local governments or other entities and the Fund.

206 Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the
207 Authority may consent to and approve any modification in the terms of any loan or loan subsidy subject
208 to guidelines adopted by the ~~Board~~Department.

209 § 62.1-239. Grants.

210 Subject to any restrictions which may apply to the use of money in the Fund, the ~~Board~~ Department
211 in its discretion may approve the use of money in the Fund to make grants or appropriations to local
212 governments or other entities to pay the cost of any project. The ~~Board~~ Department may establish such
213 terms and conditions on any grant as it deems appropriate. Grants shall be disbursed from the Fund by
214 the Authority in accordance with the written direction of the ~~Board~~Department.

215 § 62.1-239.1. Loans, loan subsidies, and grants for regional projects, etc.

216 In approving loans and grants, the ~~Board~~ Department shall give preference to loans, loan subsidies
217 and grants for projects that will (i) utilize private industry in operation and maintenance of such projects
218 where a material savings in cost can be shown over public operation and maintenance or (ii) serve two
219 or more local governments or other entities to encourage regional cooperation or (iii) both.

220 **2. That regulations of the Department of Health pertaining to the administration of the Virginia**
221 **Water Supply Revolving Fund in effect on June 30, 2000, shall remain in effect until July 1, 2002,**
222 **or until the Department of Housing and Community Development adopts new regulations for the**
223 **administration of the Fund, whichever occurs first.**