

003556556

SENATE BILL NO. 616**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on General Laws
on February 9, 2000)

(Patron Prior to Substitute—Senator Wampler)

*A BILL to amend and reenact §§ 36-139, 62.1-201, 62.1-218, 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.***Be it enacted by the General Assembly of Virginia:****1. That §§ 36-139, 62.1-201, 62.1-218, 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.

19. Designing and establishing program guidelines to meet the purposes of the Virginia Housing

60 Partnership Revolving Fund and to carry out the policies and procedures established by the Board.

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

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

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

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

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

77 24- 25. Carrying out such other duties as may be necessary and convenient to the exercise of powers
78 granted to the Department.

79 § 62.1-201. Board of Directors.

80 A. All powers, rights and duties conferred by this chapter or other provisions of law upon the
81 Authority shall be exercised by a board of directors consisting of the State Treasurer, the State Health
82 Commissioner, the Director of the Department of Environmental Quality or his designee, *the Director of*
83 *the Department of Housing and Community Development*, and six members appointed by the Governor,
84 subject to confirmation by the General Assembly. The members of the Board of Directors appointed by
85 the Governor shall serve terms of four years each, except that the original terms of three members
86 appointed by the Governor shall end on June 30, 1985, 1986, and 1987, respectively, as designated by
87 the Governor. Any appointment to fill a vacancy on the Board of Directors shall be made for the
88 unexpired term of the member whose death, resignation or removal created the vacancy. All members of
89 the Board of Directors shall be residents of the Commonwealth. Members may be appointed to
90 successive terms on the Board of Directors. Each member of the Board of Directors shall be reimbursed
91 for his or her reasonable expenses incurred in attendance at meetings or when otherwise engaged in the
92 business of the Authority and shall be compensated at the rate provided in § 2.1-20.3 for each day or
93 portion thereof in which the member is engaged in the business of the Authority.

94 B. The Governor shall designate one member of the Board of Directors as chairman; he shall be the
95 chief executive officer of the Authority. The Board of Directors may elect one member as
96 vice-chairman; he shall exercise the powers of chairman in the absence of the chairman or as directed
97 by the chairman. The State Treasurer, the Director of the Department of Environmental Quality or his
98 designee, *the Director of the Department of Housing and Community Development*, and the State Health
99 Commissioner shall not be eligible to serve as chairman or vice-chairman.

100 C. Meetings of the Board of Directors shall be held at the call of the chairman or of any ~~four~~ *five*
101 members. ~~Five~~ *Six* members of the Board of Directors shall constitute a quorum for the transaction of
102 the business of the Authority. An act of the majority of the members of the Board of Directors present
103 at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors.
104 No vacancy on the Board of Directors shall impair the right of a majority of a quorum of the members
105 of the Board of Directors to exercise all the rights and perform all the duties of the Authority.

106 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth
107 shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of
108 acceptance of membership on the Board of Directors or by providing service to the Authority.

109 § 62.1-218. Grants to local governments.

110 The Authority shall have the power and authority, with any funds of the Authority available for this
111 purpose, to make grants to local governments. In determining which local governments are to receive
112 grants, the Department of Environmental Quality, the Department of Health, *the Department of Housing*
113 *and Community Development*, and the Virginia Waste Management Board shall assist the Authority in
114 determining needs for wastewater treatment facilities, water supply facilities, solid waste treatment,
115 disposal or management facilities, or recycling facilities, and the method and form of such grants.

116 § 62.1-233. Definitions.

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

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

120 "Board" means the Board of Health.

121 "Cost," as applied to any project financed under the provisions of this chapter, means the total of all

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

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

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

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

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

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

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

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

§ 62.1-234. Creation and management of Fund.

A. There shall be set apart as a permanent and perpetual fund, to be known as the "Virginia Water Supply Revolving Fund," sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments or other entities, all income from the investment of 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.

B. *The Department shall enter into a memorandum of agreement with Department of Health, providing for the Department of Health to develop an annual Intended Use Plan as required by the federal Safe Drinking Water Act, including the allocation of capitalization grant funds and the establishment of a priority project list.*

§ 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

183 Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted
184 auditing standards and, accordingly, include such tests of the accounting records and such auditing
185 procedures as considered necessary under the circumstances. The Authority shall furnish copies of such
186 audit to the Governor and to the ~~Board~~ Department.

187 § 62.1-238. Loans to local governments or other entities.

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

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

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

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

218 C. Create and maintain a special fund or funds for the payment of the principal of and premium, if
219 any, and interest on the loan or loan subsidy from the Fund to the local government or other entity and
220 any other amounts becoming due under any agreement entered into in connection with the loan or loan
221 subsidy, or for the operation, maintenance, repair or replacement of the project or any portions thereof
222 or other property of the local government or other entity, and deposit into any fund or funds amounts
223 sufficient to make any payments on the loan or loan subsidy as they become due and payable;

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

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

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

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

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

240 4. The procurement of casualty and liability insurance.

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

local governments or other entities and the Fund.

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

§ 62.1-239. Grants.

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

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

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

2. That the Department of Housing and Community Development and the Department of Health shall enter into a memorandum of agreement by January 1, 2001, establishing (i) the process, which shall provide for consultation with the Department of Housing and Community Development, that the Department of Health shall use in developing the Intended Use Plan required by the federal Safe Water Drinking Act, and (ii) the process the Department of Housing and Community Development shall use to manage and administer the priority list projects financed through the Virginia Water Supply Revolving Fund.

3. That the provisions of this act shall become effective upon the approval by the Environmental Protection Agency of the memorandum of agreement between the Department of Housing and Community Development and the Department of Health.

SENATE
SUBSTITUTE

SB616S1