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SENATE BILL NO. 803

Offered January 10, 2001

Prefiled December 5, 2000

A BILL to amend and reenact §§ 13.1-620 and 13.1-825 of the Code of Virginia, relating to corporations; water and sewer utilities.

Patron—Reynolds

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That §§ 13.1-620 and 13.1-825 of the Code of Virginia are amended and reenacted as follows:**

§ 13.1-620. Special kinds of business.

A. If any corporation is to conduct the business of a bank or trust company, that shall be stated in the articles of incorporation and the corporation shall not have power to conduct other business except as may be related to or incidental to the banking or trust company business.

B. If any corporation is to conduct the business of an insurance company, that shall be stated in the articles of incorporation and the articles shall further set forth the class or classes of insurance the corporation proposes to undertake and the corporation shall not have power to conduct other business except as may be related to or incidental to the insurance business.

C. If any corporation is to conduct the business of a savings and loan association or savings bank, that shall be stated in the articles of incorporation and the corporation shall not have power to conduct other business except as may be related to or incidental to the stated business.

D. If any corporation is to conduct the business of a railroad or other public service company, that shall be stated in the articles of incorporation and a brief description of the business shall be included. Otherwise the corporation shall not have the power to conduct a public service business or to exercise any of the privileges of a public service company. No corporation shall be organized under this chapter for the purpose of conducting in this Commonwealth more than one kind of public service business except that the telephone and telegraph businesses or the water and sewer businesses may be combined, but this provision shall not limit the powers of domestic corporations existing on January 1, 1986. No corporation organized under this chapter to conduct the business of a public service company shall have general business powers in this Commonwealth. Corporations organized under this chapter to conduct the business of a public service company may, however, conduct in this Commonwealth other public service business or nonpublic service business so far as may be related to or incidental to its stated business as a public service company and in any other state such business as may be authorized or permitted by the laws thereof. *The maintenance of common areas by a property owners' association, as defined in § 55-509, organized under this chapter to conduct the business of a public service company, shall be deemed related or incidental to the business of the property owners' association.* Nothing in this subsection shall limit the powers of such corporation in respect of the securities of other corporations or of limited liability companies.

E. If one or more of the purposes set forth in the articles of incorporation is to own, manage or control any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages or for the production, transmission, delivery or furnishing of heat, light, power or water, including heated or chilled water, or sewerage facilities, either directly or indirectly, to or for the public, the Commission shall not issue a certificate of incorporation unless the articles of incorporation expressly state that the corporation is to conduct business as a public service company.

F. Whether or not classified elsewhere in the Code as public service companies the following are not required to incorporate as public service companies: a person authorized by the Federal Communications Commission to provide commercial mobile service, household goods carriers, petroleum tank truck carriers, bottled gas companies, taxicab companies, community television companies, charter party carriers, restricted parcel carriers, sight-seeing carriers, companies excluded from the definition of "public utility" by § 56-265.1 (b)(4) or by § 56-1.2 and compressed natural gas filling stations.

G. A water or sewer company that proposes to serve more than fifty customers shall incorporate as a public service company. A water or sewer company shall not serve more than fifty customers unless its articles of incorporation state that the corporation is to conduct business as a public service company. The two preceding sentences shall not apply to a water or sewer company incorporated before and operating a water or sewer system on January 1, 1970; however, as to any water or sewer system serving more than fifty customers, upon application to the Commission by a majority of the customers

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SB803

59 or by the company, a hearing may be held after thirty days' notice to the company and the system's
60 customers or a majority thereof, and the Commission may order such, if any, improvements or rate
61 changes or both as are just and reasonable. Upon ordering into effect any rate changes or improvements
62 found to be just and reasonable, the water or sewer system shall remain subject to the Commission's
63 regulatory authority in the same manner as a public utility for such reasonable period as the Commission
64 may direct. Nothing in this subsection shall apply to persons described in § 56-1.2.

65 § 13.1-825. Purposes.

66 Every corporation incorporated under this chapter has the purpose of engaging in any lawful purpose
67 or purposes, unless:

68 1. A statute requires the corporation to issue shares or one of the purposes of the corporation is to
69 conduct the business of a public service company other than a *water company or a sewer company*; or

70 2. A more limited purpose is (i) set forth in the articles of incorporation or (ii) required to be set
71 forth in the articles of incorporation by any other laws of this Commonwealth.