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HOUSE BILL NO. 2366

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare, & Institutions
on January 25, 2007)

(Patron Prior to Substitute—Delegate Scott, E.T.)

A BILL to amend and reenact § 15.2-2146 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-174.4, relating to the identification of noncompliant water systems.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2146 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-174.4 as follows:

§ 15.2-2146. Powers of localities to acquire certain waterworks system.

For the purpose of providing an adequate water supply or of acquiring, maintaining or enlarging a waterworks system, *including chronically noncompliant waterworks, as defined in 32.1-167*, any locality, in addition to other powers conferred by law, may acquire, as provided in § 15.2-1800, within or outside or partly within and partly outside the limits of the locality, the property, in whole or in part, whensoever acquired, of any private or public service corporation operating a waterworks system or chartered for the purpose of acquiring or operating such a system. Such property shall include its lands, plants, works, buildings, machinery, pipes, mains, wells, basins, reservoirs and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, whether such property, or any part thereof, is essential to the purposes of the corporation or not. However, any locality condemning property hereunder shall furnish water, at appropriate rates, to the customers of any water company whose property is condemned. The provisions of § 25.1-102 shall not apply in the case of condemnation of an existing water or sewage disposal system in its entirety.

§ 32.1-167. Definitions.

As used in this article, unless the context clearly requires a different meaning:

1. "Aesthetic standards" means water quality standards which involve those physical, biological and chemical properties of water that adversely affect the palatability and consumer acceptability of water through taste, odor, appearance or chemical reaction.

2. "*Chronically noncompliant waterworks*" means a waterworks that is unable to provide pure water for any of the following reasons: (i) the waterworks' record of performance demonstrates that it can no longer be depended upon to furnish pure water to the persons served, (ii) the owner has inadequate technical, financial or managerial capacity to furnish pure water to the persons served, (iii) the owner has failed to comply with an order issued by the Board or Commissioner pursuant to §§ 32.1-26 or 32.1-175.01, (iv) the owner has abandoned the waterworks and has discontinued supplying pure water to the persons served, or (v) the owner is subject to a forfeiture order pursuant to § 32.1-174.1.

2. "Domestic use" means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

3. "Governmental entity" means the Commonwealth, a town, city, county, service authority, sanitary district or any other governmental body established under state law, including departments, divisions, boards or commissions.

4. "Owner" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity or the federal government, which supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

5. "Pure water" means water fit for human consumption and domestic use (i) which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts and (ii) which is adequate in quantity and quality for the minimum health requirements of the persons served.

6. "Special order" means an administrative order issued to any person to comply with: (i) the provisions of any law administered by the Board, (ii) any condition of a permit, (iii) any regulation of the Board, or (iv) any case decision, as defined in § 2.2-4001, of the Board. A special order may include a civil penalty of not more than \$1000 for each day of violation.

7. "Water supply" means water taken into a waterworks from wells, streams, springs, lakes and other bodies of surface water, natural or impounded, and the tributaries thereto, and all impounded ground water but does not include any water above the point of intake of such waterworks.

8. "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 "waterworks" shall include 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.

60 *§ 32.1-174.4. Identification and elimination of chronically noncompliant waterworks.*
61 *The Board shall promulgate regulations for the implementation of a program to (i) identify*
62 *chronically noncompliant waterworks as defined in § 32.1-167 and (ii) create mechanisms or*
63 *enforcement options for eliminating chronically noncompliant waterworks.*