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**HOUSE BILL NO. 171**

Offered January 9, 2008

Prefiled December 26, 2007

*A BILL to amend and reenact §§ 62.1-198 and 62.1-199 of the Code of Virginia, relating to Virginia Resources Authority's financing of energy efficiency projects.*

Patrons—Kilgore, Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Gilbert, Griffith, Landes, Massie, Morgan, O'Bannon, Sherwood and Tata

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That §§ 62.1-198 and 62.1-199 of the Code of Virginia are amended and reenacted as follows:**

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; *local government energy efficiency projects*; resource recovery facilities; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; and the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, *local government energy efficiency projects*, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, technology and infrastructure for wireless broadband services, and federal facilities or former federal facilities. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

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

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other evidences of indebtedness of the Authority.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government 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, real estate appraisals, 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 by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued 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. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality

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58 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without  
59 limitation, the items set forth above. The term also includes interest and principal payments pursuant to  
60 any installment purchase agreement.

61 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other  
62 forms of collateral or security.

63 "Federal facility" means any building or infrastructure used or to be used by the federal government,  
64 including any building or infrastructure located on lands owned by the federal government.

65 "Federal government" means the United States of America, or any department, agency or  
66 instrumentality, corporate or otherwise, of the United States of America.

67 "Former federal facility" means any federal facility formerly used by the federal government or in  
68 transition from use by the federal government to a facility all or part of which is to serve any local  
69 government.

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

73 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue  
74 anticipation notes, leases or any other evidences of indebtedness of a local government.

75 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the  
76 amount of money designated as the minimum capital reserve fund requirement which may be established  
77 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any  
78 outstanding issue of bonds or credit enhancement.

79 "Project" means (i) any water supply or wastewater treatment facility including a facility for  
80 receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment,  
81 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource  
82 recovery facility located or to be located in the Commonwealth, the District of Columbia or any  
83 adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any  
84 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors  
85 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,  
86 or credit enhancement from the Authority make a determination or finding to be embodied in a  
87 resolution or ordinance that the undertaking and financing of such facility is necessary for the location  
88 or retention of such facility and the related use by the federal government in the Commonwealth. The  
89 term includes, without limitation, water supply and intake facilities; water treatment and filtration  
90 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface  
91 and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid  
92 waste treatment, disposal or management facilities; recycling facilities; *local government energy*  
93 *efficiency projects*; resource recovery facilities; related office, administrative, storage, maintenance and  
94 laboratory facilities; and interests in land related thereto. The term also means any heavy rail  
95 transportation facilities operated by a transportation district, created under the Transportation District Act  
96 of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock, barge  
97 loading facilities, and any related marine or rail equipment. The term also means, without limitation, the  
98 design and construction of roads, public parking garages and other public transportation facilities, and  
99 facilities for public transportation by commuter rail. In addition, the term means any project as defined  
100 in § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined  
101 in § 15.2-5800, provided that the specific professional sports facility projects have been designated by  
102 the General Assembly as eligible for assistance from the Authority. The term also means any equipment,  
103 facilities, and technology infrastructure designed to provide wireless broadband service. The term also  
104 means facilities supporting, related to, or otherwise used for public safety including, but not limited to,  
105 law-enforcement training facilities and emergency response, fire, rescue and police stations. The term  
106 also means the remediation, redevelopment and rehabilitation of property contaminated by the release of  
107 hazardous substances, hazardous wastes, solid wastes or petroleum where such remediation has not  
108 clearly been mandated by the United States Environmental Protection Agency, the Department of  
109 Environmental Quality, or a court pursuant to the Comprehensive Environmental Response,  
110 Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery  
111 Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State  
112 Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where  
113 jurisdiction of those statutes has been waived. The term also means any program or project for land  
114 conservation or land preservation, including but not limited to any program or project involving the  
115 acquisition of rights or interests in land for the conservation or preservation of such land.