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HOUSE BILL NO. 394

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 15.2-5114 of the Code of Virginia, relating to powers of water and waste authorities.

Patrons—Bulova, Eisenberg and Plum

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-5114 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-5114. Powers of authority.

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions which are members of the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any stormwater control system or water or waste system or any combination of such systems within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any political subdivision shall be acquired by an authority by the exercise of the power of eminent domain without the consent of the governing body of such political subdivision. Except as otherwise provided in this section, each authority is hereby vested with the same authority to exercise the power of eminent domain as is vested in the Commonwealth Transportation Commissioner. In acquiring personal property or any interest, right, or estate therein by purchase, lease as lessee, or installment purchase contract, an authority may grant security interests in such personal property or any interest, right, or estate therein;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a stormwater control system or water or waste system;

8. Combine any stormwater control system or water or waste system as a single system for the purpose of operation and financing;

9. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. Any political subdivision that is a member of an authority may lend, advance or give money to such authority;

10. Fix, charge and collect rates, fees and charges for the use of or for the services furnished by or for the benefit from any system operated by the authority. Such rates, fees, rents and charges shall be charged to and collected from any person contracting for the services or the lessee or tenant who uses or occupies any real estate which is served by or benefits from any such system. Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions;

11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or

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59 any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may
60 provide for or relate to the furnishing of services and facilities of any stormwater control system or
61 water or waste system of the authority or in connection with the services and facilities rendered by any
62 like system owned or controlled by the federal government, the Commonwealth, the District of
63 Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and
64 may include contracts providing for or relating to the right of an authority, created for such purpose, to
65 receive and use and dispose of all or any portion of the refuse generated or collected by or within the
66 jurisdiction or under the control of any one or more of them. In the implementation of any such
67 contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted
68 authorities under this chapter to enter into contracts with private entities includes the authority to enter
69 into public-private partnerships for the establishment and operation of water and sewage systems,
70 including the authority to contract for, and contract to provide, meter reading, billing and collections,
71 leak detection, meter replacement and any related customer service functions;

72 12. Contract with the federal government, the Commonwealth, the District of Columbia, any
73 adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the
74 authority deems proper, for the construction, operation or use of any project which is located partly or
75 wholly outside the Commonwealth;

76 13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in
77 connection with the acquisition, construction or improvement, maintenance or operation of a stormwater
78 control system or water or waste system, or streetlight system in King George County, subject, however,
79 to such reasonable local police regulation as may be established by the governing body of any unit
80 having jurisdiction;

81 14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on
82 such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for
83 sewer service or sewage disposal service fees, rents or charges imposed by any such body; ~~and~~

84 15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that
85 such pipe or conduit and the rights-of-way in which they are contained are made available on a
86 nondiscriminatory, first-come, first-served basis to retail providers of broadband and other
87 telecommunications services unless the facilities have insufficient capacity for such access and additional
88 capacity cannot reasonably be added to the facilities.; *and*

89 16. *Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights,*
90 *including any patent, trademark, or copyright, relating to the business of the authority.*