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SENATE BILL NO. 706

Offered January 16, 2008

A *BILL to amend and reenact §§ 8, 29, and 35, and § 45, as amended, of Chapter 66 of the Acts of Assembly of 1960, relating to the Hampton Roads Sanitation District.*

Patron—Norment

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 8, 29, and 35, and § 45, as amended, of Chapter 66 of the Acts of Assembly of 1960 are amended and reenacted as follows:

§ 8. As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "District" means the Hampton Roads Sanitation District hereinabove mentioned.

(b) The word "Commission" means the Hampton Roads Sanitation District Commission hereinabove mentioned, or if said Commission shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to said Commission shall be conferred by law.

(c) The word "sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public building, together with such Industrial wastes as may be present.

(d) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource.

(e) The term "sewage disposal system" means and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes, or any integral part thereof, and, without limiting the generality of the foregoing definition, shall embrace treatment plants, pumping stations, intercepting sewers, ~~pressure lines~~, *force mains, gravity mains, laterals, reclaimed water distribution lines*, and all necessary appurtenances and equipment, and shall include all lands, property, rights, rights of way, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

(f) The term "sewer improvements" shall embrace sewer mains and laterals for the reception of sewage from premises connected therewith and carrying such sewage to a sewage disposal system.

(g) The term "sewerage system" shall embrace sewage disposal systems, sewer improvements and all other real and personal property operated by the Commission for the purposes of this act.

(h) The word "cost" as applied to a sewage disposal system or to extensions or additions thereto or to sewer improvements shall include the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, rights of way, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed advisable by the Commission, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, provisions for working capital and a reserve for interest, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized.

(i) The word "owner" shall include all individuals, copartnerships, associations or corporations and also counties, cities, towns and other political subdivisions and all public agencies and instrumentalities.

(j) The word "bonds" or the words "revenue bonds" shall embrace revenue bonds, notes and other obligations of the District issued under the provisions of this act.

(k) The word "pollution" means the condition of water resulting directly or indirectly from any of the following acts:

(1) contaminating such water;

(2) rendering such water unclean or impure;

(3) rendering such water injurious to public health, or unfit for public use;

(4) rendering such water harmful for cattle, stock or other animals;

(5) rendering such water deleterious to, or unfit for, fish or shellfish, or fish or shellfish propagation, or aquatic animals, or plant life in such water;

(6) rendering such water unfit for commercial use; or

(7) rendering such water harmful to fish or shellfish used for human consumption.

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§ 29. All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act, and none of such moneys shall be required to be paid into the State treasury or into the treasury or to any officer of any county, city, town or other political subdivision. The Commission may provide for the payment of the proceeds of the sale of the bonds and the revenues to be received to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and the Commission may provide. All such moneys shall be secured or shall be invested and reinvested, all as may be provided by the Commission.

With respect to contracts concerning interest rates, currency, cash flow and other basis, the District may enter into any contract that the Commission determines to be necessary or appropriate to place any obligation or investment of the District, as represented by bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the Commission. Such contracts may include, without limitation, contracts commonly known as interest rate swap agreements, rate locks, forward purchase agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. Such contracts or arrangements may be entered into by the District in connection with, or incidental to, entering into or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commission, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency.

§ 35. Any substantial change in the method used by the Commission for treating and disposing of sewage and industrial wastes so as to prevent the pollution of any waters within the District, shall, before being finally adopted or used by the Commission, be approved by the State Health Commissioner Virginia Department of Environmental Quality as effective and satisfactory for the purpose intended.

§ 45. All construction contracts, except in cases of emergency, that the Commission may let for construction or materials in connection with such construction shall be let after public advertising and in accordance with the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia), the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq. of the Code of Virginia), as well as all subsequent amendments and additions to Virginia public procurement law. The Commission shall advertise for bids for the work or materials at least 10 days prior to the letting of any contracts therefor. The advertisement shall state the place where bidders may examine the plans and specifications and the time and place where bids for the work or materials will be opened. Each bidder shall accompany his bid with bid bond or other security payable to the Commission, for a reasonable sum to be fixed by the Commission, as a guarantee that if the contract is awarded to him, he will enter into a contract with the Commission for doing the work or furnishing the materials. The contract shall be let to the lowest responsible bidder, and the successful bidder shall give bond or other security for the faithful performance of the contract, in such form and amount as the Commission may require. The Commission is authorized to reject any and all bids. In the event that all bids are rejected, the Commission shall advertise for new bids as in the first instance. All bids and contracts shall be public records. The Commission is authorized, in its discretion, to do any and all such work by force account.