

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 473

An Act to amend and reenact §§ 15.2-5101, 15.2-5108, 15.2-5114, 15.2-5115, 15.2-5125, 15.2-5132, 15.2-5133, 15.2-5136, 15.2-5141, 15.2-5142, 15.2-5147, 15.2-5148, 15.2-5152 through 15.2-5155, and 15.2-5158 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 51 of Title 15.2 a section numbered 15.2-5159, relating to community development authorities.

[H 2408]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5101, 15.2-5108, 15.2-5114, 15.2-5115, 15.2-5125, 15.2-5132, 15.2-5133, 15.2-5136, 15.2-5141, 15.2-5142, 15.2-5147, 15.2-5148, 15.2-5152 through 15.2-5155, and 15.2-5158 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 51 of Title 15.2 a section numbered 15.2-5159 as follows:

§ 15.2-5101. Definitions.

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

"Authority" means an authority created under the provisions of § 15.2-5102 or Article 6 (§ 15.2-5152 et seq.) of this chapter or, if any such authority has been abolished, the entity succeeding to the principal functions thereof.

"Bonds" and "revenue bonds" include notes, bonds, bond anticipation notes, and other obligations of an authority for the payment of money.

"Cost," as applied to a ~~stormwater control system or a water or waste~~ system, includes the purchase price of the system or the cost of acquiring all of the capital stock of the corporation owning such system and the amount to be paid to discharge all of its obligations in order to vest title to the system or any part thereof in the authority; the cost of improvements; the cost of all land, properties, rights, easements, franchises and permits acquired; the cost of all labor, machinery and equipment; financing and credit enhancement charges; interest prior to and during construction and for one year after completion of construction; any deposit to any bond interest and principal reserve account, start-up costs and reserves and expenditures for operating capital; cost of engineering and legal services, plans, specifications, surveys, estimates of costs and revenues; other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, improvement, or construction; administrative expenses and such other expenses as may be necessary or incident to the financing authorized in this chapter and to the acquisition, improvement, or construction of any such system and the placing of the system in operation by the authority. Any obligation or expense incurred by an authority in connection with any of the foregoing items of cost and any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions of this chapter for engineering studies, for estimates of cost and revenues, and for other technical or professional services which may be utilized in the acquisition, improvement or construction of such system is a part of the cost of such system.

"Cost of improvements" means the cost of constructing improvements and includes the cost of all labor and material; the cost of all land, property, rights, easements, franchises, and permits acquired which are deemed necessary for such construction; interest during any period of disuse during such construction; the cost of all machinery and equipment; financing charges; cost of engineering and legal expenses, plans, specifications; and such other expenses as may be necessary or incident to such construction.

"Federal agency" means the United States of America or any department, agency, instrumentality, or bureau thereof.

"Improvements" means such repairs, replacements, additions, extensions and betterments of and to a ~~stormwater control system or a water or waste~~ system as an authority deems necessary to place or maintain the system in proper condition for the safe, efficient and economical operation thereof or to provide service in areas not currently receiving such service.

"Owner" includes persons, federal agencies, and units of the Commonwealth having any title or interest in any ~~stormwater control system or a water or waste~~ system, or the services or facilities to be rendered thereby.

"Political subdivision" means a locality or any institution or commission of the Commonwealth of Virginia.

"Refuse" means solid waste, including sludge and other discarded material, such as solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations or from community activities or residences. "Refuse" does not include (i) solid and dissolved

materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), as amended.

"Refuse collection and disposal system" means a system, plant or facility designed to collect, manage, dispose of, or recover and use energy from refuse and the land, structures, vehicles and equipment for use in connection therewith.

"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 buildings, together with such surface or ground water and household and industrial wastes as may be present.

"Sewage disposal system" means any system, plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfills, or other works, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

"Sewer system" or "sewage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial wastes or other wastes to a plant of ultimate disposal.

"Stormwater control system" means a structural system of any type that is designed to manage the runoff from land development projects or natural systems designated for such purposes, including, without limitation, retention basins, ponds, wetlands, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system.

"System" means any sewage disposal system, sewer system, stormwater control system, water or waste system, and for authorities created under Article 6 (§ 15.2-5152 et seq.) of this chapter, such facilities as may be provided by the authority under § 15.2-5158.

"Unit" means any department, institution or commission of the Commonwealth; any public corporate instrumentality thereof; any district; or any locality.

"Water or waste system" means any water system, sewer system, sewage disposal system, or refuse collection and disposal system, or any combination of such systems. "Water system" means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water, or facilities incident thereto, and any integral part thereof, including water supply systems, water distribution systems, dams and facilities for the generation or transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances, and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof but not including dams or facilities for the generation or transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water.

§ 15.2-5108. Issuance of certificate or charter.

The State Corporation Commission shall issue a certificate of incorporation or charter to the authority if it finds that:

1. The articles of incorporation conform to law; and
2. The estimated costs and rates for services of the proposed projects are fair and equitable, and have been advertised under § 15.2-5104 or subsection A of § 15.2-5156, as applicable.

Upon the issuance of the certificate or charter such authority shall be conclusively deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter.

§ 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~~ systems 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 *derived from*, any ~~system facilities or systems owned~~, operated or financed by the authority. Such rates, fees, rents and charges shall be charged to and collected ~~from~~ *by such persons and in such manner as the authority may determine from* (i) any person contracting for ~~the~~ *any such services* and/or (ii) the ~~lessee owners or tenant tenants who uses own, use or occupies occupy~~ any real estate ~~which is served by or benefits from any such system or improvements that are served by, or benefit from, any such facilities or systems, and, if authorized by the authority, customers of facilities within a community development authority district.~~ 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 any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may provide for or relate to the furnishing of services and facilities of any ~~stormwater control system or water or waste~~ system of the authority or in connection with the services and facilities rendered by any like system owned or controlled by the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of any one or more of them. In the implementation of any such contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of ~~water and sewage~~ systems, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions;

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

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

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

15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that such pipe or conduit and the rights-of-way in which they are contained are made available on a nondiscriminatory, first-come, first-served basis to retail providers of broadband and other telecommunications services unless the facilities have insufficient capacity for such access and additional

capacity cannot reasonably be added to the facilities; and

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

§ 15.2-5115. Same; contracts relating to use of systems.

An authority may make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted by this chapter, including contracts with any federal agency, the Commonwealth, the District of Columbia or any adjoining state or any unit thereof, on such terms and conditions as the authority may approve, relating to (i) the use of any ~~stormwater control system, water or waste~~ system, or streetlight system in King George County acquired or constructed by the authority under this chapter, or the services therefrom or the facilities thereof, or (ii) the use by the authority of the services or facilities of any ~~stormwater control system, water or waste~~ system, or streetlight system in King George County owned or operated by an owner other than the authority.

The contract shall be subject to such provisions, limitations or conditions as may be contained in the resolution of the authority authorizing revenue bonds of the authority or the provisions of any trust agreement securing such bonds. Such contract may provide for the collecting of fees, rates or charges for the services and facilities rendered to a unit or to the inhabitants thereof, by such unit or by its agents or by the agents of the authority, and for the enforcement of delinquent charges for such services and facilities. The provisions of the contract and of any ordinance or resolution of the governing body of a unit enacted pursuant thereto shall not be repealed so long as any of the revenue bonds issued under the authority of this chapter are outstanding and unpaid. The provisions of the contract, and of any ordinance or resolution enacted pursuant thereto, shall be for the benefit of the bondholders. The aggregate of any fees, rates or charges which are required to be collected pursuant to any such contract, ordinance or resolution shall be sufficient to pay all obligations which may be assumed by the other contracting party.

§ 15.2-5125. Issuance of revenue bonds.

An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any ~~stormwater control system or water or waste~~ system. A community development authority created under Article 6 (§ 15.2-5152 et seq.) of this chapter may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of such facilities which may be provided by the authority under § 15.2-5158. The principal of and the interest on the bonds shall be payable solely from the funds provided for in this chapter for such payment. The full faith and credit of a political subdivision shall not be pledged to support the bonds. The bonds of each issue may be dated, may mature at any time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the authority or in such manner as the authority may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the authority or in such manner as the authority may provide, including the determination by reference to indices or formulas or by agents designated by the authority under guidelines established by it. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. All revenue bonds issued under the provisions of this chapter shall have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon, bearer, registered or book entry form, or any combination of such forms, as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the authority may sell such bonds in such manner, either at a public or a private sale, and for such price, as it may determine to be for the best interest of the authority and the political subdivisions to be served thereby.

§ 15.2-5132. Exemption from taxation.

No authority shall be required to pay any taxes or assessments upon any ~~stormwater control system or water or waste~~ system acquired or constructed by it under the provisions of this chapter or upon the income therefrom. The bonds issued under the provisions of this chapter, their transfer and the income therefor, including any profit made on their sale, shall be free from taxation within the Commonwealth.

§ 15.2-5133. Trust agreement; bond resolution.

In the discretion of the authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any

trust company or bank having the powers of a trust company within or outside the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign the revenues to be received. The resolution or trust agreement shall not convey or mortgage any stormwater control system or water or waste system or any part thereof, or any improvement financed pursuant to § 15.2-5158 which is, or will be, dedicated to a public entity *other than the authority financing such improvement*. However, a bond issued by a community development authority pursuant to subdivision A 2 of § 15.2-5158 may pledge or assign a mortgage in other real property or improvements not otherwise proscribed hereunder and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants setting forth the duties of the authority in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the system or systems for which such bonds are issued and provisions for the custody, safeguarding and application of all moneys and for the employment of consulting engineers in connection with such construction, reconstruction, or operation. The resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may also contain such other provisions as the authority deems reasonable and proper for the security of the bondholders. Except as otherwise provided in this chapter, the authority may provide for the payment of the proceeds of the sale of the bonds and its revenues to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of operation.

§ 15.2-5136. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed ten percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished by any ~~storm water control system or water or waste~~ system, or streetlight system in King George County, or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;
2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;
3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;
4. Any other factor affecting the use of the facilities furnished; or
5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. 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 which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;

2. The number and size of premises benefiting therefrom;
3. The number or average number of persons residing or working in or otherwise connected with such premises;
4. The type or character of such premises;
5. Any other factor affecting the use of the facilities furnished; or
6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. No sewer, sewage disposal or storm water control rates, fees or charges shall be fixed under subsections A through F until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems at least sixty days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. No refuse collection and disposal rates, fees or charges shall be fixed under subsections A through F until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by a single publication in a newspaper having a general circulation in the area to be served by such systems at least fifteen days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, may be adopted and put into effect.

I. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G or H shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G or H.

§ 15.2-5141. Bondholder's remedies.

Any holder of revenue bonds issued by an authority under this chapter, or of any of the coupons appertaining thereto, except to the extent the rights given by this chapter may be restricted by the resolution or trust agreement providing for the issuance of such bonds, may, either at law or in equity, by suit, mandamus or other proceeding, enforce all rights under the laws of Virginia or granted by this chapter or under such resolution or trust agreement. Such holder may also compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services furnished by any ~~water or sewer~~ system.

§ 15.2-5142. Refunding bonds.

An authority may provide by resolution for the issuance of revenue refunding bonds of the authority to refund any revenue bonds outstanding and issued under this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Proceeds of such revenue refunding bonds may be used to discharge the revenue bonds, or such revenue refunding bonds may be exchanged for the revenue bonds. Each such authority may provide by resolution for the issuance of a single issue of

revenue bonds of the authority for the combined purposes of (i) paying the cost of any ~~water system, sewer system or sewage disposal~~ system, or any combination thereof, or the improvement, extension, addition or reconstruction thereof, and (ii) refunding revenue bonds of the authority which have been issued under the provisions of this chapter which are outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the bondholders, and the rights, powers, privileges, duties and obligations of the authority with respect to such bonds, shall be governed by the foregoing provisions of this chapter to the extent that they are applicable.

§ 15.2-5147. Powers of localities, etc., to make grants and conveyances to and contracts with authority.

Each political subdivision may:

1. Convey or lease to any authority, with or without consideration, any ~~water system or facility for the collection, treatment or disposal of sewage or refuse~~ *portion thereof*, or any right or interest in such facilities or any property appertaining thereto, upon such terms and conditions as the governing body determines to be in the best interest of such political subdivision;

2. Contract, jointly or severally, with any authority for the collection, treatment or disposal of sewage, industrial waste or refuse; and grant to such authority the right to receive, use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of such unit; and in implementation of such contract or grant, exercise the powers set forth in §§ 15.2-927 and 15.2-928; and

3. Contract with any authority for shutting off the supply of water furnished by any water system owned or operated by such political subdivision or under its jurisdiction or control to any premises connected with any sewer system of the authority if the owner, tenant or occupant of such premises fails to pay any rates, fees or charges for the use of or for the services furnished by such sewer system within the time or times specified in such contract.

§ 15.2-5148. Units may convey property.

Any unit, notwithstanding any contrary provision of law, may transfer jurisdiction over or lease, lend, grant or convey to an authority, upon the request of the authority and upon such terms and conditions to which the governing body and authority may agree, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a ~~stormwater control system or water or waste~~ system by the authority, including public roads and other property already devoted to public use.

§ 15.2-5152. Localities may consider petitions for creation of authority.

A. Any city may consider petitions for the creation of community development authorities; ~~a public body politic and corporate and political subdivision of the Commonwealth~~, in accordance with this article.

B. Any town may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

C. Any county may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

D. Notwithstanding any other provision of law, community development authorities shall be created pursuant to this Article and the provisions of §§ 15.2-5103 and 15.2-5107 through 15.2-5111.

§ 15.2-5153. Landowners may petition localities.

The ~~owner or~~ owners of at least 51 percent of the land area or assessed value of land in ~~the following tracts may, by petitioning any tract or tracts of land in any locality or localities may petition~~ the locality or localities in which the tract is ~~located; propose or tracts are located~~ for the creation of a community development authority;

1. ~~Any tract of any size in any city;~~

2. ~~Any tract of any size in any town which provided that before the creation of a community development authority in any town or county, the town or county has elected to consider such petitions to create community development authorities pursuant to subsection B of § 15.2-5152; and~~

3. ~~Any tract of any size in any county which has elected to consider such petitions pursuant to subsection C of the applicable provisions of § 15.2-5152. Any petition for the creation of a community development authority in multiple tracts which are not contiguous shall be signed by the owner or owners of at least 51 percent of the land area or assessed value of land in each such non-contiguous tract.~~

§ 15.2-5154. Contents of petition.

A petition for the creation of a community development authority shall:

1. Set forth the name and describe the boundaries of the proposed district, *including any provisions for adjusting the community development authority district boundaries pursuant to subsection A of § 15.2-5155;*

2. Describe the services and facilities proposed to be undertaken by the community development

authority within the district;

3. Describe a proposed plan for providing and financing such services and facilities within the district;

4. Describe the benefits which can be expected from the provision of such services and facilities by the community development authority;

5. Provide that the board members of the community development authority shall be selected under the applicable provisions of § 15.2-5113; and

6. Request the local governing body to establish the proposed community development authority for the purposes set forth in the petition.

Such petition may provide that the board members of the community development authority appointed pursuant to § 15.2-5113 shall consist of a majority of the petitioning landowners or their designees or nominees.

§ 15.2-5155. Ordinance or resolution creating authority.

A. Any locality authorized to consider petitions under this article may, by ordinance or resolution not inconsistent with the petition proposing the creation of the authority, create a community development authority, a public body politic and corporate and political subdivision of the Commonwealth. Community development authorities proposed for districts that are within any two or more localities may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the authority. *If the boundaries of the proposed community development authority district are located wholly in a town, the owner or owners shall petition the town and need not petition the county and the town may create the authority without action by the county. If the petition for the creation of a community development authority so provides, the ordinance or resolution creating the community development authority may provide for the locality at any time after the creation of the community development authority to adjust the boundaries of the community development authority district to exclude certain land as long as the owners of at least 51 percent of the land area or assessed value of land remaining in the community development authority district after the adjustment petitioned for the creation of the community development authority.*

B. An ordinance or resolution creating a community development authority shall not permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority already in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the existing authority's operational or financial condition. Such certification shall not be unreasonably withheld by the existing authority.

§ 15.2-5158. Additional powers of community development authorities.

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary *or desirable for development or redevelopment within or affecting the district* or to meet the increased demands placed upon the locality as a result of development *or redevelopment* within *or affecting* the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; entrance areas; security facilities; fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, including but not limited to refunding bonds, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority

shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. Request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. Unless requested by every property owner within the proposed district, the rate of the special tax shall not be more than \$.25 per \$100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. The special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body.

4. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra security personnel and equipment, recreational management and supervision, and grounds keeping.

5. Finance the services and facilities it provides to abutting property within the district by special assessment thereon imposed by the local governing body. All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24; provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district and the planning, designing, operating and financing of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use under this chapter, subject to annual appropriation, and may be used for no other purposes.

6. *Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the services and/or facilities provided, owned, operated, or financed by the authority benefiting property within the district. Such rates, fees, and charges may be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for the services or using the facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the authority in connection with the provision of such services or facilities.*

7. Purchase development rights that will be dedicated as easements for conservation, open space or other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this subdivision, "development rights" means the level and quantity of development permitted by the zoning ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An authority shall not use the power of condemnation to acquire development rights.

7 8. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance and fund the acquisition of land within the district. All financing authority and methods provided by subsections 2, 3, 4, 5, ~~and~~ 6, *and* 7 shall be permitted for the acquisition of land as provided herein.

B. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.

§ 15.2-5159. *Validation of creation of authorities; bonds issued.*

All proceedings heretofore taken with respect to the creation of a community development authority by any locality pursuant to this chapter are hereby presumed to be valid and all such authorities are presumed to be legally created. All proceedings heretofore taken by any community development

authority with respect to the authorization, issuance, sale, execution, delivery, and repayment of bonds by any community development authority are presumed to be valid, and any such bonds so issued are presumed valid and legal obligations of such community development authority, enforceable in accordance with law.