

11103053D

**HOUSE BILL NO. 2071**

Offered January 12, 2011

Prefiled January 12, 2011

*A BILL to amend and reenact § 15.2-2114 of the Code of Virginia, relating to regulation of stormwater; fee exemption.*

Patrons—Ingram and Bell, Richard P.

Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-2114 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2114. Regulation of stormwater.

A. Any locality, by ordinance, may adopt a stormwater control program consistent with Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1, or any other state or federal regulation, by establishing a utility or enacting a system of service charges. Income derived from these charges shall be dedicated special revenue and may be used only to pay or recover costs for the following:

1. The acquisition, as permitted by § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate and maintain stormwater control facilities;

2. The cost of administration of such programs;

3. Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, whether publicly or privately owned, that serve to control stormwater; however, prior to adoption of any ordinance pursuant to this section related to the enlargement or improvement of privately owned dams, a locality shall comply with the notice provisions of § 15.2-1427 and hold a public hearing;

4. Facility maintenance, including the maintenance of dams, whether publicly or privately owned, that serve to control the stormwater; however, prior to adoption of any ordinance pursuant to this section related to the maintenance of privately owned dams, a locality shall comply with the notice provisions of § 15.2-1427 and hold a public hearing;

5. Monitoring of stormwater control devices;

6. Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and

7. Planning, design, land acquisition, construction, operation and maintenance activities.

B. The charges may be assessed to property owners or occupants, including condominium unit owners or tenants (when the tenant is the party to whom the water and sewer service is billed), and shall be based upon their contributions to stormwater runoff; however, prior to adopting such a system, a public hearing shall be held after giving notice as required by charter or by publishing a descriptive notice once a week for two successive weeks prior to adoption in a newspaper with a general circulation in the locality. The second publication shall not be sooner than one calendar week after the first publication. A locality adopting such a system shall provide for full waivers of charges to federal, state, or local government agencies when the agency owns and provides for maintenance of storm drainage and stormwater control facilities or is a unit of the locality administering the program. A locality shall also provide full waivers of charges for roads and public street rights-of-way that are owned and maintained by state or local agencies. A locality adopting such a system shall also provide for full or partial waivers of charges to any person who develops, redevelops or retrofits outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading. The locality shall base the amount of the waiver in part on the percentage reduction in both stormwater flow and pollutant loading, from predevelopment to postdevelopment. No locality shall provide a waiver to any person who does not obtain a stormwater permit from the Department of Conservation and Recreation or the Department of Environmental Quality when such permit is required by statute or regulation. A locality adopting such a system may also provide for full waiver of charges to cemeteries. Income derived from service charges may not exceed the actual costs incurred by a locality operating under the provisions of this title.

*Buildings with land they occupy, together with additional adjacent land reasonably necessary for the convenient use of any such building, located within any locality imposing the service charge pursuant to this section shall be exempt from the stormwater utility fees and other such charges if the buildings are (i) lawfully owned and held by churches or religious bodies and wholly and exclusively used for religious worship or for the residence of the minister of any church or religious body or for use as a religious convent, nunnery, monastery, cloister, or abbey or (ii) used or operated exclusively for*

INTRODUCED

HB2071

59 *nonprofit private educational or charitable purposes, other than faculty or staff housing for any such*  
60 *educational institution.*

61 C. Any locality may issue general obligation bonds or revenue bonds in order to finance the cost of  
62 infrastructure and equipment for a stormwater control program. Infrastructure and equipment shall  
63 include structural and natural stormwater control systems of all types, including, without limitation,  
64 retention basins, sewers, conduits, pipelines, pumping and ventilating stations, and other plants,  
65 structures, and real and personal property used for support of the system. The procedure for the issuance  
66 of any such general obligation bonds or revenue bonds pursuant to this section shall be in conformity  
67 with the procedure for issuance of such bonds as set forth in the Public Finance Act (§ 15.2-2600 et  
68 seq.).

69 D. In the event charges are not paid when due, interest thereon shall at that time accrue at the rate,  
70 not to exceed the maximum amount allowed by law, determined by the locality until such time as the  
71 overdue payment and interest are paid. Charges and interest may be recovered by the locality by action  
72 at law or suit in equity and shall constitute a lien against the property, ranking on a parity with liens for  
73 unpaid taxes. The locality may combine the billings for stormwater charges with billings for water or  
74 sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish  
75 the order in which payments will be applied to the different charges. No locality shall combine its  
76 billings with those of another locality or political subdivision, including an authority operating pursuant  
77 to Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2, unless such locality or political subdivision has given  
78 its consent by duly adopted resolution or ordinance.

79 E. Any two or more localities may enter into cooperative agreements concerning the management of  
80 stormwater.