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HOUSE BILL NO. 2326

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 3, 2011)

(Patron Prior to Substitute—Delegate Lingamfelter)

A *BILL to amend and reenact § 32.1-174.1 of the Code of Virginia, relating to the regulation of waterworks systems.*

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-174.1 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-174.1. Bonds of permit holders.

A. The Board may by regulation require owners holding or issued permits for waterworks pursuant to this article, to post bonds or deposit funds to be placed in escrow.

B. The Board or the governing body of a county, city or town in which a waterworks is located may request the circuit court having jurisdiction where the waterworks is located to order forfeiture of the owner's bond or escrow account ~~when:~~

1. ~~The owner fails to pay the electric utility bills for the waterworks;~~

2. ~~The owner ceases to operate the waterworks; or~~

3. ~~The owner fails to provide water to his customers for a period of time greater than forty-eight hours except when a natural disaster prevents the owner from supplying water upon revocation of the Waterworks Operation Permit by the Board or Commissioner pursuant to § 32.1-174.~~

~~The If the foregoing condition is met, the court shall order forfeiture of such bond or escrow account, in whole or in part, if any of the three foregoing conditions is met unless the court finds the forfeiture would result in manifest injustice.~~

C. In addition to ordering such forfeiture, the court may, with the concurrence of the governing body of the county, city or town in which the waterworks is located, place the waterworks in receivership naming the county, city, or town, or any public service authority created by the county, city or town, as receiver.

D. Any sums forfeited pursuant to subdivision 1 of subsection B of this section shall be paid in the amount of such forfeiture to the electric utility supplying electrical power to the waterworks. Any sums forfeited pursuant to subdivision 2 or 3 of subsection B shall be paid in the amount of such forfeiture to the county, city or town in which the waterworks is located (i) if the county, city, or town, or a public service authority created by the county, city or town, initiates eminent domain proceedings for the condemnation of the waterworks within one year of the date of the order of forfeiture or (ii) if the county, city, town or public service authority operates the waterworks pursuant to a decree of an appropriate circuit court vesting receivership of the waterworks in the county, city, town or public service authority. If the governing body of the county, city, or town, or a public service authority created by the county, city or town, fails to initiate such condemnation proceedings within one year of the date of forfeiture of any bond or to accept receivership of the waterworks from the circuit court, the funds forfeited shall be paid to the general fund of the Commonwealth.

E. The Board may adopt regulations for determining the amount of the bond or funds to be placed in escrow based upon the number of persons served, the number of connections served, *the age and condition of the waterworks system infrastructure, the cost of maintaining, repairing, or replacing the waterworks system infrastructure*, and the water supply capacity of the permit holder.

F. No state, local or other governmental agency shall be required to post a bond or deposit funds. The Board may, by regulation, exempt classes of permit holders from such requirements if the Board determines such classes present no significant risks to public health and safety.

G. An acceptable bond for the purposes of this section shall be a bond issued by a fidelity or surety company authorized to do business in Virginia, a personal bond secured by such collateral as the Board may require or a cash bond.