

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 485

An Act to amend and reenact § 21-118.4 of the Code of Virginia, relating to the construction and maintenance of a dam in a sanitary district; emergency.

[S 560]

Approved March 30, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 21-118.4 of the Code of Virginia is amended and reenacted as follows:

§ 21-118.4. Certain additional powers of governing body.

Notwithstanding any other provisions of law, when an order has been entered creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors," shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to and operate *dams*, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain and operate, or to contract for such acquisition, construction, maintenance and operation, within such sanitary district, such community buildings, community centers, other recreational facilities and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease or otherwise, and to maintain and operate any such *dams*, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to and operate any such *dams*, motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority or the federal government or any agency thereof for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a ~~fifty-dollar~~ \$50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least ~~ten~~ 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until ~~ten~~ 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed ~~ten~~ 10 percent of the amount due or ~~ten dollars~~ \$10, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least ~~sixty-five~~ 65 years of age or persons permanently and totally disabled as defined in

§ 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers, person or persons as it may determine, and the officer or officers, person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district 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.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within ~~thirty~~ 30 days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such ~~thirty-day~~ 30-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees, or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within ~~thirty~~ 30 days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such ~~thirty-day~~ 30-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien

and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within ~~sixty~~ 60 days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or ~~fifteen~~ 15 days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of ~~ninety~~ 90 days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

2. That an emergency exists and this act is in force from its passage.