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HOUSE BILL NO. 1255

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns
on February 12, 2016)

(Patron Prior to Substitute—Delegate Pillion)

A BILL to amend and reenact § 15.2-7205 of the Code of Virginia, relating to the BVU Authority.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-7205 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-7205. Board of Directors; membership.

A. The powers of the Authority shall be vested in an the Authority Board of Directors consisting of nine seven directors. The number of Directors on the Board may directors shall not be increased altered by the Authority Board.

B. The Authority's Authority Board, which will initially take office on July 1, 2010. However, beginning on July 1, 2016, the Authority Board shall be constituted as follows:

1. Four One director who is a citizen of the City of Bristol, Virginia, citizen appointees and is not a member of the Bristol City Council, appointed by the Speaker of the House of Delegates. The four Bristol, Virginia, citizen appointees currently on the Bristol Virginia Utilities Board are hereby directors on the Authority's Board and their respective terms are extended on the Authority Board as follows:

- a. The term ending June 30, 2010, will be extended to end June 30, 2014.
- b. The term ending June 30, 2011, will be extended to end June 30, 2015.
- c. The second term ending June 30, 2011, will be extended to end June 30, 2016.
- d. The term ending June 30, 2012, will be extended to end June 30, 2016.

Each of said members will thereafter be eligible for one additional consecutive four-year term pursuant to the limitation set forth herein.

2. Two members appointed by One director who is a member of the Bristol City Council who are members of, appointed by the Bristol City Council serving on the Bristol Virginia Utilities Board as of June 1, 2010. Such members shall to serve a four-year term, coterminous with their his term on the Council, commencing July 1, 2010. Should no present member of Council serving on the Bristol Virginia Utilities Board be a member of Council on that date, Council may appoint two other members of Council to serve on the initial Authority Board for a term that is coterminous with that member's term on Council.

3. One new Bristol, Virginia, citizen, who is not a city council member. Such citizen will be director who is a citizen of Washington County and is not a member of the Washington County Board of Supervisors, appointed by the Bristol, Virginia, City Council and shall serve a term from July 1, 2010, until June 30, 2015 Senate Committee on Rules.

4. One new member, a director who is a citizen of the City of Bristol, Virginia, citizen, appointed by the Bristol Virginia Utilities Board whose term will start July 1, 2010, and end June 30, 2014 who is engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board. However, the first such director shall be appointed by the Bristol City Council for a term that ends the sooner of July 1, 2017, or the date upon which the Authority Board appoints a director to this position to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this position thereafter.

5. One director who is a member of the Board of Supervisors of Washington County, Virginia, who will be Board of Supervisors, appointed by that the Washington County Board of Supervisors to serve a four-year term coterminous with his or her term on the Board of Supervisors commencing July 1, 2010.

6. One director who is a member of the Abingdon Town Council, appointed by the Abingdon Town Council to serve a four-year term coterminous with his term on the Town Council.

7. One director who is a Scott County citizen and is not a member of the Scott County Board of Supervisors, appointed by the Speaker of the House of Delegates.

C. If any appointments to the initial Board are made prior to the effective date of this chapter, such appointments shall be deemed valid and effective as of such date The four-year term of all directors shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. The City Council shall elect, in addition to its Council members, three of the Bristol, Virginia, citizen Board members when the above terms expire. The remaining three Bristol, Virginia, citizen members will be elected by the Authority Board when the above terms expire. The City Council and the Authority Board will alternate electing persons to fill an expiring term until each has appointed the number it appoints to the Board. Any vacancy in a term shall be filled by the body making the original appointment and shall be for the remainder of the term. Said appointment shall be made within 30 days

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60 from the date the vacancy occurs.

61 E. The term of the Council members shall be for four years coterminous with those members' terms
62 of office on the City Council. Those City Council Members *Each director who is a member of the*
63 *Abingdon Town Council, Bristol City Council, or Washington County Board of Supervisors* may serve as
64 many terms as the City Council appointing governing body decides as long as the appointees are
65 members *appointee remains a member of the City Council relevant governing body.* The City Council
66 governing body may appoint other members a different member of the City Council or Board of
67 Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the
68 Council member from the Council governing body. In the latter case, the Council Member will new
69 appointee shall serve for the remainder of the term vacated by an exiting City Council member of the
70 governing body.

71 F. All other directors shall serve four-year terms, except for the longer appointments to the initial
72 Board. Those directors may serve a maximum of two terms and then must be off the Board for one full
73 year before election to fill another full term or to fill the remainder of a vacated term.

74 G. E. If funds are available, each director may be reimbursed by the Authority for the amount of
75 actual expenses incurred by him in the performance of his duties. Such expense allowance shall
76 constitute a cost of operation and maintenance of such utility systems and shall be prorated among each
77 of the systems it manages using the "3-Factor" "Three-Factor" allocation method approved by the
78 Commission. The three factors consist of the percentages that each division comprises of total plant in
79 service, total operating revenues, and total customer accounts. Once each operating division's percentage
80 of each of the three factors is calculated, the sum of the three factors divided by 3 three results in the
81 operating division's share of the total direct or indirect costs.

82 2. That § 15.2-7205 of the Code of Virginia is amended and reenacted as follows:

83 § 15.2-7205. Board of Directors; membership.

84 A. The powers of the Authority shall be vested in an the Authority Board of Directors consisting of
85 nine five directors. The number of Directors on the Board may directors shall not be increased altered
86 by the Authority Board.

87 B. The Authority's Authority Board, which will initially take office on July 1, 2010, shall be
88 constituted as follows:

89 1. Four One director who is a citizen of the City of Bristol, Virginia, citizen appointees and is not a
90 member of the Bristol City Council, appointed by the Governor. The four Bristol, Virginia, citizen
91 appointees currently on the Bristol Virginia Utilities Board are hereby directors on the Authority's Board
92 and their respective terms are extended on the Authority Board as follows:

93 a. The term ending June 30, 2010, will be extended to end June 30, 2014.

94 b. The term ending June 30, 2011, will be extended to end June 30, 2015.

95 c. The second term ending June 30, 2011, will be extended to end June 30, 2016.

96 d. The term ending June 30, 2012, will be extended to end June 30, 2016.

97 Each of said members will thereafter be eligible for one additional consecutive four-year term
98 pursuant to the limitation set forth herein.

99 2. Two members appointed by One director who is a member of the Bristol City Council who are
100 members of, appointed by the Bristol City Council serving on the Bristol Virginia Utilities Board as of
101 June 1, 2010. Such members shall to serve a four-year term, coterminous with their his term on the
102 Council, commencing July 1, 2010. Should no present member of Council serving on the Bristol
103 Virginia Utilities Board be a member of Council on that date, Council may appoint two other members
104 of Council to serve on the initial Authority Board for a term that is coterminous with that member's
105 term on Council.

106 3. One new Bristol, Virginia, citizen, who is not a city council member. Such citizen will be director
107 who is a citizen of Washington County and is not a member of the Washington County Board of
108 Supervisors, appointed by the Bristol, Virginia, City Council and shall serve a term from July 1, 2010,
109 until June 30, 2015 Senate Committee on Rules.

110 4. One new member, a director who is a citizen of the City of Bristol, Virginia, citizen, appointed by
111 the Bristol Virginia Utilities Board whose term will start July 1, 2010, and end June 30, 2014 who is
112 engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board.
113 However, the first such director shall be appointed by the Bristol City Council for a term that ends the
114 sooner of July 1, 2017, or the date upon which the Authority Board appoints a director to this position
115 to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this
116 position thereafter.

117 5. One director who is a member of the Board of Supervisors of Washington County, Virginia, who
118 will be Board of Supervisors, appointed by that the Washington County Board of Supervisors to serve a
119 four-year term coterminous with his or her term on the Board of Supervisors commencing July 1, 2010.

120 C. If any appointments to the initial Board are made prior to the effective date of this chapter, such
121 appointments shall be deemed valid and effective as of such date The four-year term of all directors

shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. The City Council shall elect, in addition to its Council members, three of the Bristol, Virginia, citizen Board members when the above terms expire. The remaining three Bristol, Virginia, citizen members will be elected by the Authority Board when the above terms expire. The City Council and the Authority Board will alternate electing persons to fill an expiring term until each has appointed the number it appoints to the Board. Any vacancy in a term shall be filled by the body making the original appointment and shall be for the remainder of the term. Said appointment shall be made within 30 days from the date the vacancy occurs.

E. The term of the Council members shall be for four years coterminous with those members' terms of office on the City Council. Those City Council Members *Each director who is a member of the Bristol City Council or Washington County Board of Supervisors* may serve as many terms as the City Council appointing governing body decides as long as the appointees are members *appointee remains a member of the City Council relevant governing body*. The City Council governing body may appoint other members a different member of the City Council or Board of Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the Council member from the Council governing body. In the latter case, the Council Member *will new appointee shall* serve for the remainder of the term vacated by an exiting City Council member *of the governing body*.

F. All other directors shall serve four-year terms, except for the longer appointments to the initial Board. Those directors may serve a maximum of two terms and then must be off the Board for one full year before election to fill another full term or to fill the remainder of a vacated term.

G. E. If funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. Such expense allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated among each of the systems it manages using the ~~"3-Factor"~~ "Three-Factor" allocation method approved by the Commission. The three factors consist of the percentages that each division comprises of total plant in service, total operating revenues, and total customer accounts. Once each operating division's percentage of each of the three factors is calculated, the sum of the three factors divided by 3 *three* results in the operating division's share of the total direct or indirect costs.

3. That upon the completion of the transfer to a third party of ownership of the Authority's broadband service, commonly known as BVU OptiNet, the director who is a member of the Abingdon Town Council, appointed by the Abingdon Town Council, and the director who is a Scott County citizen and not a member of the Scott County Board of Supervisors, appointed by the Speaker of the House of Delegates, shall both be removed from their directorships, and the second enactment of this act shall become effective.

4. That this act shall not be construed to affect the contract of employment existing between the BVU Authority or BVU Board of Directors and the Executive Vice-President and Chief Financial Officer of the BVU Authority as of the effective date of this act.

6. That the members of the Board of Directors of the BVU Authority in office on June 30, 2016, are hereby removed from office as of July 1, 2016. Notwithstanding the appointment of any director on or before July 1, 2010, or of his successor, any term of office begun before July 1, 2016, and scheduled to end after that date is hereby terminated. No person who was a member of the Board of Directors in office on June 30, 2016, shall be eligible for reappointment to the Board prior to July 1, 2018.

7. That no later than July 1, 2016, the Auditor of Public Accounts or his legally authorized representative shall examine the accounts and books of the BVU Authority.

8. That any sale or disposition of any of the Authority's assets shall be made in accordance with the BVU Authority Transition Agreement made between the City of Bristol, Virginia, and Bristol Virginia Utilities, dated November 2, 2009.

9. That notwithstanding any contrary provision of law, general or special, the Bristol City Council shall, as of the effective date of this act, have the authority to make the appointment of a member of the Bristol City Council pursuant to subdivision B 2 of § 15.2-7205 of the Code of Virginia, as amended by this act, for the term ending July 1, 2020.

10. That notwithstanding any contrary provision of law, general or special, the Bristol City Council shall, as of the effective date of this act, have the authority to make the appointment of a citizen of the City of Bristol, Virginia, who is engaged in business and is not a member of the Bristol City Council pursuant to subdivision B 4 of § 15.2-7205 of the Code of Virginia, as amended by this act, for the term ending July 1, 2020.

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