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HOUSE BILL NO. 1740

Offered January 11, 2017

Prefiled January 8, 2017

A BILL to amend and reenact §§ 21-113 through 21-116, 21-117, 21-117.1, 21-118, and 21-119 of the Code of Virginia, relating to sanitary districts; authority to create or expand.

Patron—Minchew

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 21-113 through 21-116, 21-117, 21-117.1, 21-118, and 21-119 of the Code of Virginia are amended and reenacted as follows:

§ 21-113. Creation; inclusion of town in new or enlarged district.

The ~~circuit court~~ *governing body* of ~~any a~~ *a* county in ~~this the~~ *the* Commonwealth, ~~or the judge of such court in vacation~~, upon the petition of 50 qualified voters of a proposed district, or, if the proposed district contains less than 100 qualified voters, upon petition of ~~fifty~~ 50 percent of the qualified voters of the proposed district, may ~~make an order creating~~, *by ordinance, create* a sanitary district or districts in and for the county, which ~~order ordinance~~ shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

§ 21-114. Hearing and notice thereof.

Upon the filing of the petition, the ~~court~~ *governing body of a county* shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a ~~consideration finding of fact~~ of whether ~~the property embraced in the proposed district will or will not be benefited by the establishment thereof; all creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons, who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement, shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearings. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the court or the judge thereof in vacation governing body. At least ten 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be created until the notice has been given and the hearing had.~~

§ 21-115. Answer and defense.

Any person interested may answer the petition and make defense thereto; and if upon such hearing the ~~court, or the judge thereof in vacation, as the case may be, governing body of a county~~ be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

§ 21-116. Enlargement of sanitary districts.

The ~~circuit court, or the judge of such court in vacation~~ *governing body of a county*, upon the petition of ~~the governing body of the county and of twenty-five~~ 25 percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may ~~make an order extending, by ordinance, extend~~ the boundaries and enlarging any sanitary district created under the provisions of this article, which ~~order ordinance~~ shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ 21-114 and 21-115, and the notice of such hearing may require all interested persons to appear and show cause why any special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § 21-118 may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such ~~order ordinance~~ enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the

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59 district, and such ~~order~~ ordinance shall expressly preserve and protect such rights and interests. All
60 interested persons; who reside in or who own real property in (i) a proposed district or (ii) an existing
61 district in cases of enlargement; shall have the right to appear and show cause why the property under
62 consideration should or should not be included in the proposed district or enlargement of same at such
63 hearing.

64 **§ 21-117. Merger of sanitary districts.**

65 Any two or more sanitary districts heretofore or hereafter created in any county under the provisions
66 of this article; may be merged into a single district by ~~an order entered by the circuit court of such~~
67 ~~county, or the judge thereof in vacation~~ the governing body of the county, by ordinance, upon the
68 petition of not less than ~~fifty~~ 50 qualified voters residing within the boundaries of each of the districts
69 desiring to be so merged, which ~~order~~ ordinance shall prescribe the metes and bounds and the name or
70 other designation of the single district created by such merger. From and after the ~~entry of such order~~
71 ~~adoption of such ordinance~~, the governing body of such county shall, as to the single districts so
72 created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by
73 § 21-118; and all funds then on hand to the credit of each of the districts so merged shall be merged
74 into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the
75 ~~court or judge governing body of the county~~ upon the hearing next herein provided for.

76 Upon the filing of the petition, a hearing shall be had before the ~~court or judge governing body of~~
77 ~~the county~~, after notice as provided by § 21-114, which notice shall require all interested parties to
78 appear and show cause, if any they can, ~~(1)~~ (i) why the funds then on hand to the credit of each of the
79 merged districts should not be merged into a single fund for the purpose above mentioned; ~~(2)~~ and (ii)
80 why a special tax should not be levied on all the property within the limits of the consolidated district,
81 subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the
82 principal at maturity; of any then outstanding bonds theretofore issued by any one or more of the
83 districts so merged.

84 Upon the hearing, such ~~order~~ ordinance shall be ~~made and entered~~ adopted as to the ~~court or judge~~
85 ~~governing body of the county~~ may seem equitable and proper, concerning the combination of the funds
86 on hand to the credit of each of the districts so merged; and the levying of a special tax on all the
87 taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned;
88 provided that such ~~order~~ ordinance shall preserve and protect the rights of the holders of any such
89 outstanding bonds, whose rights; and interests shall not be limited or affected by any of the provisions
90 of this section.

91 **§ 21-117.1. Abolishing sanitary districts.**

92 Any sanitary district heretofore or hereafter created in any county under the provisions of the
93 preceding sections of this article; may be abolished by ~~an order entered~~ ordinance adopted by the ~~circuit~~
94 ~~court governing body of such county, or the judge thereof in vacation~~; upon the petition of the
95 governing body of the county and of no less than 50 qualified voters residing within the boundaries of
96 the district desired to be abolished; or, if the district contains less than 100 qualified voters, upon
97 petition of the governing body of the county and ~~fifty~~ 50 percent of the qualified voters residing within
98 the boundaries of such district.

99 Upon filing of the petition, the ~~court governing body of the county~~ shall fix a day for a hearing on
100 the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether
101 the property in the sanitary district will or will not be benefited by the abolition thereof, and the ~~court~~
102 ~~governing body of the county~~ shall be fully informed as to the obligations and functions of the sanitary
103 district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in
104 some newspaper of general circulation within the county to be designated by the ~~court or the judge~~
105 ~~thereof in vacation governing body of the county~~. At least ~~ten~~ 10 days shall intervene between the
106 completion of the publication and the date set for hearing, and such publication shall be considered
107 complete on the twenty-first day after the first publication, and no such district shall be abolished until
108 the notice has been given and the hearing had.

109 Any interested parties may appear and be heard on any matters pertaining to the subject of the
110 hearing.

111 Upon the hearing, such ~~order~~ ordinance shall be ~~made and entered~~ adopted as to the ~~court or judge~~
112 ~~governing body of the county~~ may seem equitable and proper, concerning the abolition of the district
113 and as to the funds on hand to the credit of the district. ~~Provided, provided,~~ however, that no such ~~order~~
114 ~~ordinance~~ shall be ~~made~~ adopted abolishing the sanitary district unless any bonds of the sanitary district
115 ~~which~~ that have theretofore been issued have been redeemed and the purposes for which the sanitary
116 district was created have been completed, or, unless all obligations and functions of the sanitary district
117 have been taken over by the county as a whole, or, unless the purposes for which the sanitary district
118 was created are impractical or impossible of accomplishment and no obligations have been incurred by
119 said sanitary district.

120 **§ 21-118. Powers and duties of governing body.**

After the ~~entry~~ adoption of such ~~order~~ ordinance creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.

2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.

3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.

4. 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. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.

5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § 21-118.4 (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.

6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. 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 and sidewalks.

8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter 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.

9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.

10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:

a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2, and by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1;

b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1; or

c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of

182 Title 25.1.

183 11. To appoint, employ and compensate out of the funds of the district as many persons as special
184 policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of
185 the Commonwealth and of the county within such district. Such special policemen shall have, within
186 such district and within one-half mile thereof, all of the powers vested in policemen appointed under the
187 provisions of Article 1 (§ 15.2-1700 et seq.) of Chapter 17 of Title 15.2.

188 **§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of**
189 **governing bodies, etc., not affected.**

190 A. Each sanitary district created or purported to be created by ~~an order of the circuit court of any~~
191 ~~county of the Commonwealth, or a judge thereof~~ *the governing body of a county*, heretofore or hereafter
192 made and ~~entered~~ *adopted* pursuant to any general law of the Commonwealth, is hereby determined to
193 be and is hereby made, from and after the date of such creation or purported creation, a special taxing
194 district for the purposes for which created; and any improvements heretofore or hereafter made by or for
195 any such district are hereby determined to be general tax improvements and of general benefit to all of
196 the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the
197 property within the sanitary district.

198 B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in
199 this chapter shall in any wise affect the authority, power and jurisdiction of the respective county
200 governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges,
201 magistrates or any other county, district or state officer over the area embraced in any such district, nor
202 shall the same restrict or affect in any way any county, or the governing body of any county, from
203 imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar
204 benefits, in any such district, taxes or assessments for local public improvements as permitted by the
205 Constitution and by other statutes of the Commonwealth.

206 C. Notwithstanding subsections A and B ~~of this section~~, the board of supervisors of Buckingham
207 County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners
208 abutting a street being improved by the sanitary district a user fee for such service. Such fee may be
209 enforced as provided in § 21-118.4.