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HOUSE BILL NO. 1204

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 15.2-2403 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 15.2 a section numbered 15.2-926.5, relating to cankerworms; eradication; spraying.

Patron—Tran

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2403 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 9 of Title 15.2 a section numbered 15.2-926.5 as follows:

§ 15.2-926.5. Eradication of fall cankerworm; property owner opt-in.

No locality, including a service district created pursuant to the provisions of Chapter 24 (§ 15.2-2400 et seq.), shall spray any pesticide intended to suppress an infestation of the fall cankerworm on any property unless the owner of the property requests such spraying through an opt-in program operated by the locality.

§ 15.2-2403. Powers of service districts.

After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, including but not limited to general government facilities; water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging of creeks and rivers to maintain existing uses; control of infestations of (i) insects that may carry a disease that is dangerous to humans, (ii) gypsy moths, (iii) cankerworms, in compliance with the provisions of § 15.2-926.5, or (iv) other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.2-700 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served, construction, maintenance, and general upkeep of streets and roads; construction, maintenance, and general upkeep of streets and roads through creation of urban transportation service districts pursuant to § 15.2-2403.1; and other services, events, or activities that will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service district. Such services, events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual, business or other private entity. Any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department.

2. Notwithstanding the provisions of § 33.2-326, to provide, in addition to services authorized by subdivision 1, transportation and transportation services within a service district, regardless of whether the facilities subject to the services are or will be operated or maintained by the Virginia Department of Transportation, including, but not limited to: public transportation systems serving the district; transportation management services; road construction, including any new roads or improvements to existing roads; rehabilitation and replacement of existing transportation facilities or systems; and sound walls or sound barriers. However, any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department. The proceeds from any annual tax or portion thereof collected for road construction pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is necessary to finance such construction; however, the governing body or bodies shall make available an annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set aside to finance such road construction.

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59 3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title,
60 interest or easements therefor in and to real estate in such district and maintain and operate the same as
61 may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and
62 2.

63 4. To contract with any person, municipality or state agency to provide the governmental services
64 authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities
65 and equipment as may be necessary and desirable in connection therewith.

66 5. To require owners or tenants of any property in the district to connect with any such system or
67 systems, and to contract with the owners or tenants for such connections. The owners or tenants shall
68 have the right of appeal to the circuit court within 10 days from action by the governing body.

69 6. To levy and collect an annual tax upon any property in such service district subject to local
70 taxation to pay, either in whole or in part, the expenses and charges for providing the governmental
71 services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such
72 facilities and equipment as may be necessary and desirable in connection therewith; however, such
73 annual tax shall not be levied for or used to pay for schools, police, or general government services not
74 authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the
75 same to be expended in the district in which raised. Such tax may be levied on taxable real estate zoned
76 for residential, commercial, industrial or other uses, or any combination of such use classification, within
77 the geographic boundaries of the service district; however, such tax shall only be levied upon the
78 specific classification of real estate that the local governing body deems the provided governmental
79 services to benefit. In addition to the tax on property authorized herein, in the City of Virginia Beach,
80 the city council shall have the power to impose a tax on the base transient room rentals, excluding
81 hotels, motels, and travel campgrounds, within such service district at a rate or percentage not higher
82 than five percent which is in addition to any other transient room rental tax imposed by the city. The
83 proceeds from such additional transient room rental tax shall be deposited in a special fund to be used
84 only for the purpose of beach and shoreline management and restoration. Any locality imposing a tax
85 pursuant to this subdivision may base the tax on the full assessed value of the taxable property within
86 the service district, notwithstanding any special use value assessment of property within the service
87 district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1,
88 provided the owner of such property has given written consent. In addition to the taxes and assessments
89 described herein, a locality creating a service district may contribute from its general fund any amount
90 of funds it deems appropriate to pay for the governmental services authorized by subdivisions 1, 2, and
91 11 of this section.

92 7. To accept the allocation, contribution or funds of, or to reimburse from, any available source,
93 including, but not limited to, any person, authority, transportation district, locality, or state or federal
94 agency for either the whole or any part of the costs, expenses and charges incident to the acquisition,
95 construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or
96 maintenance of any facilities and services in the district.

97 8. To employ and fix the compensation of any technical, clerical, or other force and help which from
98 time to time, in their judgment may be necessary or desirable to provide the governmental services
99 authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such
100 facilities and equipment as may be necessary or desirable in connection therewith.

101 9. To create and terminate a development board or other body to which shall be granted and
102 assigned such powers and responsibilities with respect to a special service district as are delegated to it
103 by ordinance adopted by the governing body of such locality or localities. Any such board or alternative
104 body created shall be responsible for control and management of funds appropriated for its use by the
105 governing body or bodies, and such funds may be used to employ or contract with, on such terms and
106 conditions as the board or other body shall determine, persons, municipal or other governmental entities
107 or such other entities as the development board or alternative body deems necessary to accomplish the
108 purposes for which the development board or alternative body has been created. If the district was
109 created by court order, the ordinance creating the development board or alternative body may provide
110 that the members appointed to the board or alternative body shall consist of a majority of the
111 landowners who petitioned for the creation of the district, or their designees or nominees.

112 10. To negotiate and contract with any person or municipality with regard to the connections of any
113 such system or systems with any other system or systems now in operation or hereafter established, and
114 with regard to any other matter necessary and proper for the construction or operation and maintenance
115 of any such system within the district.

116 11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights
117 of not less than five years' duration in real property that will provide a means for the preservation or
118 provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.).
119 Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of
120 condemnation to acquire any interest in land for the purposes of this subdivision.

121 12. To contract with any state agency or state or local authority for services within the power of the
122 agency or authority related to the financing, construction, or operation of the facilities and services to be
123 provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its
124 general tax revenues, or to pledge its full faith and credit.

125 13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and
126 programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and
127 removal of skunks and the conditions that harbor them.

128 14. In Accomack County, to construct, maintain, and operate in the Wallops Research Park,
129 consistent with all applicable federal, state, and local laws and regulations, such infrastructure, services,
130 or amenities as may be necessary or desirable to provide access for aerospace-related economic
131 development to the NASA/Wallops Flight Facility runway and related facilities, and to create and
132 terminate a Wallops Research Park Partnership body, which shall consist of one representative of the
133 NASA/Wallops Research Flight Facility, one representative of the U.S. Navy Surface Combat Systems
134 Center, one representative of the Marine Science Consortium, one representative of the Accomack
135 County government, the Chancellor of the Virginia Community College System, and one representative
136 of the Virginia Economic Development Partnership. The Partnership body shall have all of the powers
137 enumerated in § 15.2-2403. Federal appointees to the Partnership body shall maintain their absolute
138 duties of loyalty to the U.S. government.

139 15. To contract with a nongovernmental broadband service provider who will construct, maintain,
140 and own communications facilities and equipment required to facilitate delivery of last-mile broadband
141 services to unserved areas of the service district, provided that the locality documents that less than 10
142 percent of residential and commercial units within the project area are capable of receiving broadband
143 service at the time the construction project is approved by the locality.

144 As used in this subdivision:

145 "Area unserved by broadband" means a designated area in which less than 10 percent of residential
146 and commercial units are capable of receiving broadband service, provided that the Department of
147 Housing and Community Development for its Virginia Telecommunication Initiative may by guidelines
148 modify such percentage from time to time.

149 "Broadband" means Internet access at speeds greater than 10 Mbps download speed and one Mbps
150 upload speed, provided that the Department of Housing and Community Development for its Virginia
151 Telecommunication Initiative may by guidelines modify such speeds from time to time.