

Commission on Local Government

Estimate of Local Fiscal Impact

2020 General Assembly Session

Bill: SB826

Patron: McDougle

Date: 1/24/2020

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Water and sewer service charges; tenant or lessee. Reduces the maximum potential responsibility of a property owner for a tenant's unpaid water and sewer charges by capping the dollar amount of such property owner's responsibility at \$200.

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### Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$250,000.00; however, it is worth noting that the locality providing the \$250,000.00 estimate did not provide a justification or methodology for their estimate. The next highest estimate of \$147,000.00 appears to be a statewide estimate provided by that locality. Most of the localities noted that the bill would diminish their ability to recover fees, impact their business process, increase workload, and require additional administrative staffing to pursue unpaid water and sewer charges. They also noted that capping this fee could lead to increase water and sewer charges with additional fees to recover the loss of revenue generated by this bill. One locality noted that the bill would impact their ability to issue revenue bond as revenue bond issuance requires "no fee/or no free service forgiveness" and all funds have to be applied to the utility service operation or debt service/reserve obligations. Some localities noted that the cost of the bill is indeterminate, because one significant non-residential user could drastically impact the revenue for the utility due to the cap imposed by the bill. They noted that they would recommend amending their local ordinance to consider all cases with tenant housing to be commercial property and charge the property owner directly to avoid this scenario with future development. One locality of those who responded with no cost noted that a precise fiscal impact cannot be estimated but it would adversely impact their water service.

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### Local Analysis:

**Locality:** City of Covington

**Estimated Fiscal Impact:** \$15,000.00

The City of Covington has concerns related to the following points and questions on SB 826 and we oppose. Given that many small localities and even a fair share of the state's larger urban population deal with LMI and poverty rates that have not seen a significant decrease to where they were pre-recession, a three month deposit poses a significant financial burden on some of Virginia's most vulnerable citizens as well as senior citizens on fixed incomes that do not receive a housing subsidy. The service fees affiliated for water and sewer services that are collected are a vital component of funding for those operations in municipalities, especially small municipalities. Diminished ability for recovery of these fees adversely impacts the ability to then fund other critical services such as public safety and schools as cost-shifting would occur because of decreased revenue generation ability in other areas. Therefore, allowing forgiveness of balance(s) for any account presents a significant financial risk to localities. Additionally, the HCV and HUD current general requirements to participate in housing assistance require water services and utilities as a means of compliance - this is also a property maintenance matter of ensuring services are on. Moving to forgiveness of any kind forgoes the process by which the Department of Social Services and other civic and faith based organizations assist Virginians who are income-challenged. Can the city offer a "no deposit" scenario for those on subsidized housing or hardship with current legal obligation 'Official Statements' on Revenue Bond issuance that requires "no fee/or no free service forgiveness' and all funds have to be applied to the utility service operation or debt service obligations and debt reserve obligations? Does the intent include both residential and commercial business (restaurant or car wash) that lease a property? The city could lose considerable money and or the owner could have a substantial property lien placed on their property. Tracking eligibility for forgiveness within a locality poses quite a business process impact as well, in that workload and due diligence would expand in validating and cross referencing accounts that qualify. Many localities already face challenges with their monthly utility billing operations with tracking payments and issuing bills on time - this would add another layer and create a need for additional administrative staffing without funding to support it.

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Locality: City of Norfolk

Estimated Fiscal Impact: \$0.00

No fiscal impact is anticipated.

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**Locality:** City of Roanoke

**Estimated Fiscal Impact:** \$0.00

Within the Roanoke Valley, water and sewer service is handled by the Western Va Water Authority. There is not a direct budgetary link between the City of Roanoke and the Water Authority. Though this would impact the Authority, there is no fiscal impact to the City.

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Locality: City of Virginia Beach

Estimated Fiscal Impact: \$0.00

The City of Virginia Beach does not record liens against property owners for this purpose, therefore the additional limitation proposed by this bill does not impact the City fiscally.

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**Locality:** Fairfax County

**Estimated Fiscal Impact:** \$0.00

The bill would impose a cap of \$200 on a property owner's responsibility for a tenant's unpaid water and sewer charges. Fairfax County provides sewer services, and capping the dollar amount of the owner's responsibility will have an adverse impact on the County. A precise fiscal impact cannot be estimated at this time. The bill may also adversely impact Fairfax Water, which provides water services to Fairfax residents, but is a separate entity from the County.

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Locality: Frederick County

Estimated Fiscal Impact: \$6,000.00

The proposed \$200 cap might address urban water and sewer service systems where economies of scale result in less expensive monthly services. But in small utilities that do not typically benefit from economies of scale, treatment costs are much greater, resulting in higher monthly service charges for customers. These monthly service charges, when not paid, result in much higher accumulated costs.

Our provider, Frederick Water, which bills residential customers every two months, by the time a tenant's water service is cut off they have used the water and sewer for four months. If the tenant has left, they can still owe a significant amount of money (often over \$300) even after their deposit (Frederick Water requires a \$150 deposit for new accounts) has been applied.

If SB826 passes, Frederick Water would need to raise the new account deposit to help cover outstanding balances. Increasing the deposit amount makes it more of a challenge for new customers to initiate service.

Approximately \$10,000 was past due and uncollected over the past 2 years (FY18+FY19)

In 2017, the law was updated to where utilities cannot put a lien on the property unless they first send the account to the Set Off Program or a Collection Agency (15.2-2119.4 (E)). Utilities cannot deny service to a new tenant if the old tenant left and owes money. (15.2-2119.4 (H)).

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**Locality:** Prince Edward County

**Estimated Fiscal Impact:** \$12,579.76

The cost to the Town of Farmville which lies in Prince Edward County would be \$12,579.76. This amount was determined by looking at the delinquent water/sewer bills owed by tenants and subtracting the first \$200 owed.

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Locality: Prince George County

Estimated Fiscal Impact: \$15,000.00

Estimated fiscal impact is over \$0, but cannot accurately be determined. Our County utility opposes this cap as adding such language allows a tenant or the property owner to avoid paying their outstanding charges. This could cause irreparable harm to revenue collections. Furthermore, an increase in rates would be necessary to offset the loss in revenues, causing the ratepayer to make up for the inability others to pay for their service.

If this amendment is approved, the County utility would recommend to our BOS that we amend our ordinance to consider all cases with tenant housing to be commercial property and charge the property owner directly to avoid this scenario with future development.

Capping charges to \$200 creates a loop hole that could allow tenants to avoid payment of charges. Additional language should be added to clarify that a future tenant cannot be reconnected without payment of all outstanding charges. Otherwise, there is a potential for the tenant to pay the property owner \$200 to avoid the outstanding charges.

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**Locality:** Rappahannock County

**Estimated Fiscal Impact:** \$147,000.00

It is nearly impossible to calculate the fiscal impact of this bill. The Code of Virginia currently allows up to three months of unpaid water and sewer charges to be levied against the property in the form of a lien. While it is understandable why there may be interest in placing a dollar value on the charge, this may significantly impact the revenue generation potential of a water and sewer system thereby requiring some other form of revenue generation (higher rates for all).

The calculation must be based on the three-month cost of water and sewer for not only a typical residential customer, but also potentially a non-residential lessee. Consider a case where a lessee is a private brewery that uses large quantities of water and disposes large quantities of waste water. Combined average monthly water and sewer rates is \$80/5,000 gallons of usage (<http://daa.com/wp-content/uploads/2019/10/Report-2019-for-digital-WWV.pdf>) Just one significant non-residential user could drastically impact the revenue for a utility if the maximum lien is artificially limited to \$200 (or \$300 as currently amended). With data from the referenced study, from 126 respondents to a survey there was a median of 212 water connections where 1,000,000 gallons per month were used and reported that their rates for those non-commercial users for water and sewer combined was just under \$15,000 per million gallons. Assume that only one large user per system was a lessee and then consider worst case that the lessee fails to pay, the fiscal impact to the system would be \$14,700 multiplied over the commonwealth by number of systems with a failed large commercial lessee and multiplied across years into the future. Assume 10 instances per year across the state... \$147,000 per year impact.

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Locality: Town of Blacksburg

Estimated Fiscal Impact: \$1,000.00

We are a college Town with numerous tenants paying for water and sewer charges. Currently we do collection actions against the tenants and only go after the landlord if there has been a problem with the landlord informing us of the new tenants. We do follow the notification as outlined in the bill. Capping the charges at \$200 could cause a problem in a leak situation but by and large it would not have an impact.

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**Locality:** Town of Buchanan

**Estimated Fiscal Impact:** \$10,000.00

Last fiscal year we collected around \$10,000 from water and sewer service charges from property owners for tenants unpaid charges.

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Locality: Town of Christiansburg

Estimated Fiscal Impact: \$0.00

The Town of Christiansburg does not utilize the provision to hold property owner's responsible for tenants water and sewer charges - therefor no fiscal impact.

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**Locality:** Town of Luray

**Estimated Fiscal Impact:** \$250,000.00

Utility bills for tenants will typically exceed \$200 in a three month period.

Will this limit apply if the utility account is in the landlord's name with a tenant?

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Locality: Town of Scottsville

Estimated Fiscal Impact: \$0.00

This small town does not operate a water and sewer utility and does not collect any utility-related revenues. This bill, therefore, would have no effect on the Town budget.

Other small towns in the state do operate their own small utility systems. This user cannot assess the frequency of tenant defaults and the cost of collections.

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**Locality:** Town of Warsaw

**Estimated Fiscal Impact:** \$5,000.00

Local governments do not have the logistical capabilities to track down transient tenants and hold them responsible for their unpaid bills. This is a frequent occurrence that localities must deal with and it should be up to the property owners within the terms of their lease agreement and security deposit to rectify the situation, not the locality. We understand that this seems like a simpler solution and protects the rights of property owners, however, costs for localities to pursue unpaid water and sewer charges for the numerous amounts of tenants that habitually do this will eventually be passed down to law abiding citizens of the locality in the form of increased water and sewer charges, additional user fees, etc., in order to subsidize the legal expenses incurred from this situation. A potential Bill in lieu of this language could address timeliness in which localities only have a certain amount of days to allow for a past due balance to accrue and must then cut the service, not allowing for a large unpaid bill.

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Professional and Other Organization

Analysis:

Organization: Northern Neck PDC

No fiscal impact to counties.

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**Organization:** Virginia's Region 2000 Local Government Council

The Towns and Services Authority utility providers that I spoke to believe that this legislation would be unfair in passing unpaid costs back to the locality/authority. The Amherst County Services Authority indicated that about 20% of their total delinquencies are over \$200, totaling close to \$10,000. The City of Lynchburg Finance Director noted: "This would be a huge impact to the City of Lynchburg to the tune of tens of thousands a year. So many landlords don't maintain their rental properties so tenants have ridiculous water bills due to leaks and running toilets. Plus, it is possible for a tenant to have 3 months of delinquent bills before their service is disconnected. In these situations, it is not uncommon for a water bill to exceed \$600 to \$800 for a 3 month period. This would cause rates to increase for every citizen to absorb the rest of the bill.