

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 325

An Act to amend and reenact § 15.2-5102.1 of the Code of Virginia, relating to the Hampton Roads area refuse collection authority; financial planning.

[S 1141]

Approved March 24, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5102.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5102.1. (Contingent expiration date) Hampton Roads area refuse collection and disposal system authority.

Any authority, or any subsidiary thereof, organized pursuant to § 15.2-5102 to operate a refuse collection and disposal system that has among its members the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, *Suffolk*, and Franklin, and the Counties of Isle of Wight, *and Southampton, and Suffolk*, shall, notwithstanding any other law to the contrary, comply with the following requirements:

1. Each locality that is a member of the authority shall ~~be entitled to~~ nominate individuals to fill one position on the Board of Directors (the Board) by submitting a list of three potential directors, each of whom shall possess general business knowledge and shall not be an elected official, to the Governor. The Governor shall then select and appoint one director from each of the lists of nominees prepared by the member localities. In addition, each member locality shall be authorized to directly appoint, upon a majority vote of the governing body of the member locality, one ex officio member of the Board who shall be an employee of the member locality. The members of the Board shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. No member shall serve for more than two consecutive four-year terms, except that (i) any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms and (ii) a member directly appointed by the governing body of a member locality shall not be subject to a term limit.

2. The authority shall develop and maintain ~~an overall strategic~~ *a financial* plan that shall cover a period of at least five years forward from the year in which it is submitted and approved by the Board. *The plan shall include at a minimum a five-year projection of revenues and expenses, a five-year capital improvement and equipment replacement schedule, and the proposed funding for the plan.* The ~~plans~~ plan shall be reviewed annually to determine whether amendments are needed. Any such amendments shall be submitted to the board of directors for approval.

3. The authority's core purpose shall be defined as "management of the safe and environmentally sound disposal of regional waste." The authority shall devote its time and effort to activities associated with its core purpose. A vote of a majority of the Board shall be required prior to undertaking any activities not associated with the authority's core purpose.

4. The authority shall develop and maintain a strategic operating plan identifying all elements of its core business units and core purpose, how each business and administrative unit will support the overall strategic plan, and how the authority will achieve its stated mission and core purpose. The strategic operating plan shall be subject to review and approval of the Board on an annual basis.

5. The authority shall consider outsourcing any or all functions that may result in reduced costs to the authority; ~~and the authority shall annually issue~~ *issuing* requests for proposals that potentially reduce the costs of any of its programs. In addition, the authority shall ~~accept and review, in accordance with the authority's procurement policies, consider~~ any proposals *the authority receives* under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) that potentially reduce the costs of any of the authority's programs.

6. The authority shall evaluate its landfill capacity annually, taking into consideration and projecting future changes in the quantity of waste disposed of in its landfill, or landfills reasonably situated or contractually obligated to accept its waste.

7. The authority shall keep records of its costs, revenue, debts, and capital expenses by fiscal year for each program. ~~The authority shall also keep~~ and records of costs for each individual capital project. *The authority shall not dispose of or destroy such records except pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).*

8. ~~The~~ *If the* authority incurs long-term debt or issues new debt, the authority shall maintain a detailed financing plan that shall include a plan for the retirement of all debt and a plan for the funding of all planned capital projects. The plan for the funding of all planned capital projects shall specify the amount of debt the authority will issue in furtherance of the projects and the debt repayment plan for any new debt created by the capital projects, including the revenue source that will be used to repay the

debt. The detailed financing plan shall be updated ~~and approved annually by the Board and reviewed and certified annually by the authority with the advice and assistance of~~ an external certified public accountant ~~or other qualified financial consultant and approved annually by the Board.~~

9. Prior to issuance of new debt, the ~~Board~~ authority shall, ~~with the advice and assistance of an external certified public accountant or other qualified financial consultant,~~ perform a due diligence investigation of the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt. Such analysis shall be ~~certified by an external certified public accountant,~~ reviewed by the Board; and approved by a vote of a minimum of 75 percent of the Board. The issuance of new debt shall require a vote of a minimum of 75 percent of the Board of Directors of the authority. The authority shall not issue long-term bond indebtedness to fund operational expenses. The provisions of this subdivision shall not apply to the issuance of new debt issued for the purpose of refunding or refinancing debt incurred by the authority prior to September 30, 2009.

10. In the interest of open and transparent government, the authority shall adhere strictly to the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.).

11. The executive director of the authority shall not be permitted to execute or commit the authority to any contract, memorandum of agreement or memorandum of understanding without an informed vote of approval by the Board. This subdivision shall not apply in the case of (i) contracts ~~for the purchase of goods and services for an aggregate sum of less than \$30,000, which are subject to the Virginia Procurement Act (Va. Code § 2.2-4300 et seq.) but exempted from competitive negotiation or competitive sealed bidding by a duly adopted policy of the Board involving matters with a value of less than \$100,000 that are consistent with the Board-approved annual budget and, if applicable, the authority's approved procurement policy~~ and (ii) sole source and emergency procurements made pursuant to subsections E and F of § 2.2-4303.