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SENATE BILL NO. 1401

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 62.1-198, 62.1-199, and 62.1-218 of the Code of Virginia, relating to Virginia Resources Authority; purpose; community development and housing projects.

Patron—Lewis

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-198, 62.1-199, and 62.1-218 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation, including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal, and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages, and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic ~~and development projects~~; community development projects, *to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income*; recovered gas energy facilities; the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects; land conservation or land preservation programs or projects; oyster restoration projects; drainage projects; solid waste treatment, disposal, and management projects; recycling projects; energy conservation and energy efficiency projects; professional sports facilities; resource recovery projects; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages, and other public transportation facilities, and facilities for public transportation by commuter rail; site acquisition and site development work for the benefit of economic development projects; *community development projects, to include projects related to the production and preservation of housing, including housing for persons and families of low and moderate income*; technology; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; infrastructure for broadband services; recovered gas energy facilities; federal facilities or former federal facilities; and renewable energy projects. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless a ~~different meaning clearly appears from the context~~ *requires a different meaning*:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions, or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

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59 "Cost," as applied to any project financed under the provisions of this chapter, means the total of all
60 costs incurred by the local government as reasonable and necessary for carrying out all works and
61 undertakings necessary or incident to the accomplishment of any project. It includes, without limitation,
62 all necessary developmental, planning and feasibility studies, surveys, plans and specifications,
63 architectural, engineering, financial, legal or other special services, the cost of acquisition of land and
64 any buildings and improvements thereon, including the discharge of any obligations of the sellers of
65 such land, buildings or improvements, real estate appraisals, site preparation and development, including
66 demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery
67 and equipment, the reasonable costs of financing incurred by the local government in the course of the
68 development of the project, including the cost of any credit enhancements, carrying charges incurred
69 before placing the project in service, interest on local obligations issued to finance the project to a date
70 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
71 connection with placing the project in service, the funding of accounts and reserves which the Authority
72 may require, and the cost of other items which the Authority determines to be reasonable and necessary.
73 It also includes the amount of any contribution, grant, or aid which a local government may make or
74 give to any adjoining state, the District of Columbia or any department, agency, or instrumentality
75 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without
76 limitation, the items set forth above. ~~The term~~ "Cost" also includes interest and principal payments
77 pursuant to any installment purchase agreement.

78 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other
79 forms of collateral or security.

80 "Defective drywall" means the same as that term is defined in § 36-156.1.

81 "Federal facility" means any building or infrastructure used or to be used by the federal government,
82 including any building or infrastructure located on lands owned by the federal government.

83 "Federal government" means the United States of America, or any department, agency, or
84 instrumentality, corporate or otherwise, of the United States of America.

85 "Former federal facility" means any federal facility formerly used by the federal government or in
86 transition from use by the federal government to a facility all or part of which is to serve any local
87 government.

88 "Local government" means any county, city, town, municipal corporation, authority, district,
89 commission, or political subdivision created by the General Assembly or pursuant to the Constitution
90 and laws of the Commonwealth or any combination of any two or more of the foregoing.

91 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue
92 anticipation notes, leases, credit enhancements, or any other obligations of a local government for the
93 payment of money.

94 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
95 amount of money designated as the minimum capital reserve fund requirement which may be established
96 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
97 outstanding issue of bonds or credit enhancement.

98 "Project" means (i) any water supply or wastewater treatment facility, including a facility for
99 receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment,
100 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
101 recovery facility located or to be located in the Commonwealth, the District of Columbia, or any
102 adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any
103 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors
104 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,
105 or credit enhancement from the Authority make a determination or finding to be embodied in a
106 resolution or ordinance that the undertaking and financing of such facility is necessary for the location
107 or retention of such facility and the related use by the federal government in the Commonwealth. The
108 term includes, without limitation, water supply and intake facilities; water treatment and filtration
109 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface
110 and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid
111 waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities;
112 related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related
113 thereto. The term also includes energy conservation measures and facility technology infrastructure as
114 defined in § 45.2-1702 and other energy objectives as defined in § 45.2-1706.1. The term also means
115 any heavy rail transportation facilities operated by a transportation district created under the
116 Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service,
117 including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also
118 means, without limitation, the design and construction of roads, the construction of local government
119 buildings, including administrative and operations systems and other local government equipment and
120 infrastructure, public parking garages and other public transportation facilities, and facilities for public

transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 or 10.1-603.28 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the ~~building~~ *production or preservation of housing or a recovered gas energy facility*; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall. *The term also means any undertaking by a local government to provide grants, loans, financial assistance, or any other incentives pursuant to § 15.2-958.*

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

§ 62.1-218. Grants to local governments.

The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants to local governments. In determining which local governments are to receive grants, the Department of Environmental Quality, the Department of Health, *the Department of Housing and Community Development*, and the Virginia Waste Management Board shall assist the Authority in determining needs for wastewater treatment facilities; water supply facilities; solid waste treatment, disposal, or management facilities; *housing, including housing for persons and families of low and moderate income*; or recycling facilities, and the method and form of such grants.