

LD0550633

## SENATE BILL NO. 237

Offered January 24, 1994

A BILL to amend and reenact §§ 2.1-329.1, 62.1-202, 62.1-203, 62.1-204, 62.1-205, and 62.1-216 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 62.1-221.1, 62.1-231.1, 62.1-231.2, 62.1-240.1, 62.1-240.2, 62.1-241.9:1 and 62.1-241.9:2, relating to the Virginia Resources Authority.

\_\_\_\_\_  
Patron—Colgan

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Referred to the Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.1-329.1, 62.1-202, 62.1-203, 62.1-204, 62.1-205, and 62.1-216 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-221.1, 62.1-231.1, 62.1-231.2, 62.1-240.1, 62.1-240.2, 62.1-241.9:1 and 62.1-241.9:2 as follows:

§ 2.1-329.1. Liability of treasurers or public depositors.

When investments are made in accordance with this chapter *or other provision of law*, no treasurer or public depositor shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.

§ 62.1-202. Appointment and duties of Executive Director.

The Governor shall appoint an Executive Director of the Authority, who shall report to, but not be a member of, the Board of Directors. The Executive Director shall serve as the ex officio secretary of the Board of Directors and shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and direction of the Board of Directors. He shall attend meetings of the Board of Directors, shall keep a record of the proceedings of the Board of Directors and shall maintain and be custodian of all books, documents and papers of the Authority, the minute book of the Authority and its official seal. He may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that the copies are true copies, and all persons dealing with the Authority may rely upon the certificates. He shall also perform other duties as instructed by the Board of Directors in carrying out the purposes of this chapter. He shall execute a surety bond in a penalty sum determined by the ~~Attorney General~~ Board of Directors. The surety bond shall be executed by a surety company authorized to transact business in the Commonwealth and shall be conditioned upon the faithful performance of the duties of the office.

§ 62.1-203. Powers of Authority.

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;

2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of the Authority and the conduct of its business;

3. To sue and be sued in its own name;

4. To have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;

5. To maintain an office at any place within the Commonwealth which it designates;

6. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties and assets;

8. To employ officers, employees, agents, advisers and consultants, including without limitations, attorneys, financial advisers, engineers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;

9. To procure insurance, in amounts and from insurers of its choice, *or provide self-insurance*, against any loss, *cost, or expense* in connection with its property, assets or activities, including insurance *or self-insurance* against liability for its acts or the acts of its directors, employees or agents and for the indemnification of the members of its Board of Directors *and its employees and agents*;

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60 10. To procure insurance, guarantees, letters of credit and other forms of collateral or security from  
61 any public or private entities, including any department, agency or instrumentality of the United States  
62 of America or the Commonwealth, for the payment of any bonds issued by the Authority, including the  
63 power to pay premiums or fees on any such insurance, guarantees, letters of credit and other forms of  
64 collateral or security;

65 11. To receive and accept from any source aid, grants and contributions of money, property, labor or  
66 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the  
67 conditions upon which the aid, grants or contributions are made;

68 12. To enter into agreements with any department, agency or instrumentality of the United States of  
69 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of  
70 planning, regulating and providing for the financing of any projects;

71 13. To collect, or to authorize the trustee under any trust indenture securing any bonds to collect,  
72 amounts due under any local obligations owned by the Authority, including taking the action required  
73 by § 15.1-227.61 to obtain payment of any sums in default;

74 14. To enter into contracts or agreements for the servicing and processing of local obligations owned  
75 by the Authority;

76 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

77 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with  
78 respect to the rate of interest, time and payment of any installment of principal or interest, or any other  
79 term of any local obligations owned by the Authority;

80 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in  
81 connection with any activities or services of the Authority;

82 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably  
83 implied by this chapter; and

84 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the  
85 Capital Reserve Fund transferred to a trustee for such purpose from the Water Facilities Revolving Fund  
86 pursuant to § 62.1-231 or from the Water Supply Revolving Fund pursuant to § 62.1-240 *or from the*  
87 *Virginia Solid Waste or Recycling Revolving Fund.*

88 § 62.1-204. Power to borrow money and issue bonds.

89 The Authority shall have the power to borrow money and issue its bonds in amounts the Authority  
90 determines to be necessary or convenient to provide funds to carry out its purposes and powers and to  
91 pay all costs and expenses incurred in connection with the issuance of bonds. The total principal amount  
92 of bonds outstanding at any one time, issued by the Authority, shall not exceed the sum of ~~\$400~~\$700  
93 million without prior approval of the General Assembly.

94 Notwithstanding the foregoing, the Authority shall not exceed the sum of ~~\$6,000,000~~ *eight million*  
95 *dollars* in the total principal amount of bonds outstanding at any one time for the purpose of financing  
96 any heavy rail transportation facilities.

97 § 62.1-205. Power to issue refunding bonds.

98 The Authority shall have the power: (i) to issue bonds to renew or to pay bonds, including the  
99 interest, (ii) whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds,  
100 whether the bonds to be refunded have or have not matured, and (iii) to issue bonds partly to refund  
101 bonds then outstanding and partly for its corporate purposes. The refunding bonds may be exchanged for  
102 the bonds to be refunded or they may be sold and the proceeds applied to the purchase, redemption or  
103 payment of the bonds to be refunded. The amount of the ~~refunding~~ bonds issued by the Authority *and*  
104 *refunded with proceeds of refunding bonds issued hereunder* shall not be included in the total of  
105 outstanding bonds for purposes of the limit on the amount of bonds issued by the Authority as provided  
106 in § 62.1-204.

107 § 62.1-216. Purchase of local obligations.

108 The Authority shall have the power and authority, with any funds of the Authority available for such  
109 a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to  
110 finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all  
111 or any portion of the local obligations so purchased. The Authority may also, subject to any such  
112 pledge, sell any local obligations so purchased and apply the proceeds of such a sale to the purchase of  
113 other local obligations for financing or refinancing the cost of any project or for any other corporate  
114 purpose of the Authority.

115 The Authority may require, as a condition to the purchase of any local obligation, that the local  
116 government issuing an obligation covenant to perform any of the following:

117 A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a  
118 specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the  
119 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal  
120 of and premium, if any, and interest on the local obligations issued by the local government to the  
121 Authority; and (iii) any amounts necessary to create and maintain any required reserve, including any

rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on any local obligations and any other amounts becoming due under any agreement entered into in connection with the local obligation, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

C. Create and maintain other special funds as required by the Authority; and

D. Perform other acts, including the conveyance of real and personal property together with all right, title and interest therein to the Authority, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the local obligations and to provide for the remedies of the Authority or other holder of the local obligations in the event of any default by the local government in the payment, including, without limitation, any of the following:

1. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for local obligations from any source, public or private, and the payment therefor of premiums, fees or other charges.

2. The payment of the allocable shares of the local governments, as determined by the Authority, of any costs, fees, charges or expenses attributable to insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports incurred in connection with the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The determination of such allocable shares may be made by the Authority on any reasonable basis.

3. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure local obligations issued in connection with such combination or any part or parts thereof.

4. The payment of the allocable shares of the local governments, as determined by the Authority on any reasonable basis, of rate stabilization funds established or required by the Authority in connection with the issuance of bonds by the Authority to acquire local obligations of two or more local governments.

All local governments issuing and selling local obligations to the Authority are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts need not be identical among all participants in financings of the Authority, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Authority.

*In addition to any other powers, any local government issuing and selling local obligations to the Authority to finance or refinance solid waste treatment, disposal, or management facilities is further authorized to establish and collect such rates, fees, assessments, or other charges for the availability of the use of such facilities, as may be determined by the local government to be necessary or appropriate to pay the cost of the local government in procuring, developing, operating, maintaining, repairing, renewing, replacing, improving, financing, and refinancing such facilities and for such reserves in connection therewith as may be necessary or appropriate.*

*§ 62.1-221.1. Contracts concerning interest rates, currency, cash flow, or other loans.*

*A. In connection with, or incidental to, the issuance or carrying of obligations or the acquisition or carrying of any investment otherwise authorized or permitted by law, the Authority may enter into any contract or arrangement, including, without limitation, interest rate swap agreements, futures and contracts providing for payments based on levels of, or changes in, interest rates which the Authority determines to be necessary or appropriate to place the obligation or investment of the Authority, in whole or in part, on the interest rate, currency, cash flow or other basis desired by the Authority.*

*B. Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Authority after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be deemed appropriate by the Authority.*

*§ 62.1-231.1. Sale of loans.*

*The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.*

*§ 62.1-231.2. Powers of the Authority.*

*The Authority is authorized to do any act necessary or convenient to the exercise of the powers granted in this chapter or reasonably implied thereby.*

183       § 62.1-240.1. *Sale of loans.*

184       *The Authority is empowered at any time and from time to time to sell, upon such terms and*  
185 *conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this*  
186 *chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale*  
187 *shall be designated for deposit to, and become part of, the Fund.*

188       § 62.1-240.2. *Powers of the Authority.*

189       *The Authority is authorized to do any act necessary or convenient to the exercise of the powers*  
190 *granted in this chapter or reasonably implied thereby.*

191       § 62.1-241.9:1. *Sale of loans.*

192       *The Authority is empowered at any time and from time to time to sell, upon such terms and*  
193 *conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this*  
194 *chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale*  
195 *shall be designated for deposit to, and become part of, the Fund.*

196       § 62.1-241.9:2. *Powers of the Authority.*

197       *The Authority is authorized to do any act necessary or convenient to the exercise of the powers*  
198 *granted in this chapter or reasonably implied thereby.*