

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 402

*An Act to amend and reenact §§ 15.1-1241 and 15.1-1250.03 of the Code of Virginia, relating to the Virginia Water and Sewer Authority Act.*

[H 2515]

Approved March 18, 1995

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

**1. That §§ 15.1-1241 and 15.1-1250.03 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-1241. One or more political subdivisions may create authority.

A. The governing body of a political subdivision may by ordinance or resolution, or the governing bodies of two or more political subdivisions may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, or a garbage and refuse collection and disposal authority, or any combination or parts thereof under an appropriate name and title, containing the word "authority," which shall be a public body politic and corporate. Such ordinance, resolution or agreement shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum as hereinafter provided, if one be ordered.

B. The owners of at least fifty-one percent of the land area or assessed value of land which is within the boundaries of a proposed authority district in any city or, which (i) in any county with a population of at least 75,000, contains at least ~~500~~ 250 acres, ~~or~~ (ii) in any county with a population of less than ~~75,000~~ 50,000 through which an interstate highway passes, contains at least 3000 acres, a portion of which lies within two miles of the centerline of the right-of-way of an interstate highway, *or (iii) in any county with a population between 50,000 and 75,000 through which an interstate highway passes, contains at least 250 acres,* may petition for the creation of a community development authority therein, which shall be a public body politic and corporate. However, in any eligible county, the minimum acreage required for a proposed authority district shall be 100 acres for commercial property *or for mixed use commercial- and residential-zoned property. Counties over 50,000 in population may modify minimum district size limits where amounts financed equal or exceed three million dollars.* Such petitions shall:

1. Set forth the name and describe the boundaries of the proposed district;
2. Describe the services and facilities proposed to be undertaken by the development authority within the district;
3. Describe a proposed plan for providing and financing such services and facilities as proposed within the district;
4. Describe the benefits which can be expected from the provision of such services and facilities by the development authority within the district;
5. Provide that the members of the development authority selected under the applicable provisions of § 15.1-1249 shall consist of a majority of petitioning landowners or their designees or nominees; and
6. Request the local governing body to establish the proposed development authority for the purposes set forth in the petition.

Upon the filing of such a petition, the governing body may decide whether to hold a public hearing. An ordinance or resolution creating such development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be given by publication once a week for three successive weeks in a newspaper of general circulation within the locality, and the hearing shall not be held sooner than ten days after completion of such publication. The petitioning landowners shall bear the expense of such publication. An ordinance or resolution adopted or approved under this subsection shall not be inconsistent with the petition creating the development authority. Nor shall such ordinance or resolution permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority then in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the operational or financial condition of such existing authority. Such certification shall not be unreasonably withheld by the existing authority. After the public hearing, the local governing body shall deliver a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Any petitioning landowner shall then have thirty days in which to withdraw his signature on the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are

withdrawn as provided herein, the local governing body may pass the proposed ordinance or resolution in conformance herewith only upon certification that the petition continues to meet the provisions of this subsection with respect to minimum acreage or assessed value as the case may be. The local governing body, upon approving the resolution creating the district, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this subsection, "parcel" is to be defined as tax map parcel.

§ 15.1-1250.03. Additional powers of authority.

Each authority created under § 15.1-1241 B, in addition to the powers provided in § 15.1-1250, is hereby authorized and empowered:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain infrastructure improvements enumerated in the ordinance or resolution establishing the district necessary to meet the increased demands placed upon local government as a result of development within the district, including, but not limited to, the following:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, *storm water management and retention systems*, gas and electric lines and street lights within the district, or serving the district, which shall meet or may exceed the specifications of the locality in which such authority's roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses, entrance areas, security facilities, fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

2. To issue revenue bonds of the development authority as provided in § 15.1-1252, *including but not limited to refunding bonds*, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this section, such revenue bonds to be payable solely from revenues received by the development authority.

3. To request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the development authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. *Unless requested by every property owner within the proposed district*, the rate of the special tax shall not be more than twenty-five cents per \$100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. Such special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account, *and shall be used only for the purposes contemplated herein*. All revenues received by the locality pursuant to any such taxes which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid over to the development authority without the prior approval of the local governing body.

4. To provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra security personnel and equipment, recreational management and supervision, and grounds keeping.

5. To request that the local governing body impose a special assessment upon the abutting property within the district to finance the services and facilities provided by the development authority. All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Article 2 (§ 15.1-239 et seq.) of Chapter 7 of Title 15.1; *provided that any other provision of law notwithstanding, (i) the taxes or assessments permitted may equal but shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district; and the planning, designing, operating and financing of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to forty years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by any authority, without a penalty for prepayment. Notwithstanding any other provision of law, any*

*assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements.* All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under such Article 2. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use under the Act, subject to annual appropriation, *and may be used for no other purposes.*

6. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.

**2. That an emergency exists and this act is in force from its passage.**