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HOUSE BILL NO. 1005

Offered January 26, 1998

A BILL to amend and reenact § 15.2-2109 of the Code of Virginia, relating to public utilities.

Patrons—Hall, Bryant, Cranwell, Day, Dudley, Ingram, Keating, Morgan, Orrock, Spruill, Stump, Weatherholtz and Williams

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2109 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2109. General powers of localities as to public utilities; prevention of pollution of certain water.

A. Any locality may (i) acquire or otherwise obtain control of or (ii) establish, maintain, operate, extend and enlarge: waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass transportation systems, stormwater management systems and other public utilities within or outside the limits of the locality and may acquire within or outside its limits in accordance with § 15.2-1800 whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending or enlarging waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass transportation systems, stormwater management systems and other public utilities, and the rights-of-way, rails, pipes, poles, conduits or wires connected therewith, or any of the fixtures or appurtenances thereof. As required by subsection C of § 15.2-1800, this section expressly authorizes a county to acquire real property for a public use outside its boundaries.

The locality may also prevent the pollution of water and injury to waterworks for which purpose its jurisdiction shall extend to five miles beyond the locality. It may make, erect and construct, within or near its boundaries, drains, sewers and public ducts and acquire within or outside the locality in accordance with § 15.2-1800 so much land as may be necessary to make, erect, construct, operate and maintain any of the works or plants mentioned in this section.

In the exercise of the powers granted by this section and by § 15.2-2115, localities shall be subject to the provisions of § 25-233 to the same extent as are corporations. The provisions of this section shall not be construed to confer upon any locality the power of eminent domain with respect to any public utility owned or operated by any other political subdivision of this Commonwealth. The provisions of this section shall not be construed to exempt localities from the provisions of Chapters 20 (§ 46.2-2000 et seq.), 22 (§ 46.2-2200 et seq.) and 23 (§ 46.2-2300 et seq.) of Title 46.2. *For purposes of this subsection, "other public utilities" does not include any telecommunications services.*

B. A locality may not (i) acquire all of a public utility's facilities, equipment or appurtenances for the production, transmission or distribution of natural or manufactured gas, or of electric power, within the limits of such locality, or (ii) take over or displace, in whole or in part, the utility services provided by such gas or electric public utility to customers within the limits of such locality until after the acquisition is authorized by a majority of the voters voting in a referendum held in accordance with the provisions of Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24. 2 in such locality on the question of whether or not such facilities, equipment or appurtenances should be acquired or such services should be taken over or displaced; however, the provisions of this subsection shall not apply to the use of energy generated from landfill gas in any city with a population between 64,000 and 69,000 or in any county with a population of at least 500,000. In no event, however, shall a locality be required to hold a referendum in order to provide gas or electric service to its own facilities. Notwithstanding any provision of this subsection, a locality may acquire public utility facilities or provide services to customers of a public utility with the consent of the public utility. No city or town which provided electric service as of January 1, 1994, shall be required to hold such a referendum prior to the acquisition of a public utility's facilities, equipment or appurtenances used for the production, transmission or distribution of electric power or to the provision of services to customers of a public utility. Nothing in this subsection shall be deemed to (i) create a property right or property interest or (ii) affect or impair any existing property right or property interest of a public utility.

INTRODUCED

HB1005