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**HOUSE BILL NO. 82**

Offered January 13, 2010

Prefiled January 4, 2010

*A BILL to amend and reenact § 15.2-2122 of the Code of Virginia, relating to civil penalties for violations of sewage disposal system ordinances.*

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Patron—Knight

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Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-2122 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.

A. For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § 62.1-44.19.

2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.

3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.

4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.

6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.

9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of § 15.2-2119.

*B. Any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of subdivision (8a) of § 62.1-44.15 may, in addition to any other powers or authority conferred by this section or by any other general or special law, adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions of ordinance governing the introduction of pollutants and wastes into the locality's public sewer system. The schedule of civil*

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59 penalties shall be uniform for each type of specified violation, and the penalty for any one violation  
60 shall be a civil penalty of not more than \$100 for the initial summons and not more than \$150 for each  
61 additional summons. Each day during which the violation is found to have existed shall constitute a  
62 separate violation, provided that a series of specified violations arising from the same operative set of  
63 facts shall not result in civil penalties exceeding a total of \$3000. Such penalties shall be paid into the  
64 treasury of the locality for the purpose of abating, preventing, or mitigating environmental pollution.

65 The locality's director of public utilities or his designee may issue a civil summons ticket for a  
66 scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an  
67 appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for  
68 trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil  
69 penalty established for the offense charged.

70 If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit  
71 liability, the violation shall be tried in the general district court in the same manner and with the same  
72 right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the  
73 burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission  
74 of liability or finding of liability under this section shall not be deemed an admission at a criminal  
75 proceeding.

76 No civil action authorized by this section shall proceed while a criminal action is pending.