

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 724

An Act to amend and reenact §§ 4 and 8, as amended, § 9, § 10, as amended, § 12, § 13, as amended, and §§ 21 and 40 of Chapter 66 of the Acts of Assembly of 1960, which created the Hampton Roads Sanitation District, relating to the operation of the Hampton Roads Sanitation District.

[S 672]

Approved April 9, 2012

Be it enacted by the General Assembly of Virginia:

1. That §§ 4 and 8, as amended, § 9, § 10, as amended, § 12, § 13, as amended, and §§ 21 and 40 of Chapter 66 of the Acts of Assembly of 1960 are amended and reenacted as follows:

§ 4. Each member of the Commission shall, before entering upon the discharge of his duties, take and subscribe the oath of office required by Article II, § 7, Constitution of Virginia (1971). Each such Commissioner shall be covered by a public official's liability policy in the amount of at least \$1,000,000, with a \$10,000 deductible available through the Commonwealth. The premium of such insurance policies shall be paid by the Commission.

§ 8. As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "District" means the Hampton Roads Sanitation District hereinabove mentioned.

(b) The word "Commission" means the Hampton Roads Sanitation District Commission hereinabove mentioned, or if said Commission shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to said Commission shall be conferred by law.

(c) The word "sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public building, together with such Industrial wastes as may be present.

(d) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource.

(e) The term "sewage disposal system" means and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes, or any integral part thereof, and, without limiting the generality of the foregoing definition, shall embrace treatment plants, pumping stations, intercepting sewers, force mains, gravity mains, laterals, reclaimed water distribution lines, and all necessary appurtenances and equipment, and shall include all lands, property, rights, rights of way, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

(f) The term "sewer improvements" shall embrace sewer mains and laterals for the reception of sewage from premises connected therewith and carrying such sewage to a sewage disposal system.

(g) The term "sewerage system" shall embrace sewage disposal systems, sewer improvements and all other real and personal property operated by the Commission for the purposes of this act.

(h) The word "cost" as applied to a sewage disposal system or to extensions or additions thereto or to sewer improvements shall include the cost of construction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, rights of way, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed advisable by the Commission, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, provisions for working capital and a reserve for interest, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized.

(i) The word "owner" shall include all individuals, copartnerships, *limited liability companies*, associations ~~or~~ and corporations and also counties, cities, towns and other political subdivisions and all public agencies and instrumentalities.

(j) The word "bonds" or the words "revenue bonds" shall embrace revenue bonds, notes and other obligations of the District issued under the provisions of this act.

(k) The word "pollution" means the condition of water resulting directly or indirectly from any of the following acts:

- (1) contaminating such water;
- (2) rendering such water unclean or impure;
- (3) rendering such water injurious to public health, or unfit for public use;
- (4) rendering such water harmful for cattle, stock or other animals;

(5) rendering such water deleterious to, or unfit for, fish or shellfish, or fish or shellfish propagation, or aquatic animals, or plant life in such water;

(6) rendering such water unfit for commercial use; or

(7) rendering such water harmful to fish or shellfish used for human consumption.

§ 9. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, town or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, town or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or political subdivision thereof to levy or to pledge any form of taxation whatever therefor. ~~All~~ *The text of* such revenue bonds shall contain a statement ~~on their face~~ substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the Commission hereunder beyond the extent to which moneys shall have been provided under the provisions of this act.

§ 10. The Commission is hereby authorized and empowered:

(a) to adopt bylaws and to make rules and regulations for the management of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to sue and to be sued;

(d) to construct, and to improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a sewage disposal system or systems, enter within or without or partly within and partly without the corporate limits of the District, and to construct sewer improvements within the corporate limits of the District;

(e) to issue revenue bonds, notes or other obligations of the District for any of its authorized purposes, payable solely from the special funds provided under the authority of this act and pledged for their payment, all as provided in this act;

(f) to fix and collect rates, fees and other charges for the services and facilities furnished by any such sewage disposal system or sewer improvements, and to fix and collect charges for making connections *with any such system or improvements*;

(g) to acquire in the name of the District, either by purchase, lease, grant, or the exercise of the right of eminent domain, such lands, structures, property, rights, rights of way, easements, franchises and other interests in or relating to lands, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, improvement, extension, enlargement or operation of any sewage disposal system or sewer improvements, and to hold and dispose of all real and personal property under its control;

(h) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, managers, and such other officers, employees and agents as may be necessary in its judgment, and to fix their compensation;

(i) to exercise jurisdiction, control and supervision over any sewage disposal system or systems or sewer improvements operated or maintained by the Commission and to make and enforce such rules and regulations for the maintenance and operation of any such sewage disposal system or systems or sewer improvements as may, in the judgment of the Commission, be necessary or desirable for the efficient operation of any such system or improvements and for accomplishing the purposes of this act;

(j) to enter on any lands, water or premises located within or without the District to make surveys, borings, soundings or examinations for the purposes of this act;

(k) to construct and operate trunk, intercepting or outlet sewers, sewer mains, laterals, conduits or pipelines in, along or under any streets, alleys, highways or other public places within or without the District; in so constructing its facilities, it shall see that the public use of such streets, alleys, highways, and other public places is not unnecessarily interrupted or interfered with and that such streets, alleys, highways and other public places are restored to their former usefulness and condition within a reasonable time; to this end the Commission shall cooperate with the Commonwealth Transportation Board and the appropriate officers of the respective counties, cities and towns having an interest in such matters;

(l) to restrain, enjoin or otherwise prevent any county, city, town or political subdivision and any person or corporation, public or private, from discharging into any waters within the District, any sewage, industrial wastes or other refuse which would contribute or tend to contribute to the pollution of such waters, and to restrain, enjoin or otherwise prevent the violation of any provision of this act or of any resolution, rule or regulation adopted pursuant to the powers granted by this act;

(m) to use and connect with any sewage disposal system or sewer improvement within the District and, if deemed necessary by the Commission to close off and seal any outlets and outfalls therefrom;

(n) subject to such provisions and restrictions as may be set forth in the resolution authorizing any revenue bonds or in the trust agreement hereinafter mentioned securing the same, to enter into contracts

with the United States of America or any agency or instrumentality thereof, or with any county, city, town or political subdivision or any sanitary district, private corporation, copartnership, association or individual providing for or relating to the treatment and disposal of sewage;

(o) to receive and accept from the United States of America or any agency or instrumentality thereof grants for or in aid of the planning, construction or financing of any sewage disposal system or sewer improvements, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(p) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(q) to do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons;

(r) to execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Commission or to carry out the powers expressly given in this act; and

(s) to seek civil penalties or civil charges against owners who have been charged with violation of or found to be in violation of the pretreatment standards incorporated in the permit or other requirements of the District's approved industrial waste control program. The penalties which the District may seek, and the procedures to be followed by the District, shall be the same as those set forth for the State Water Control Board, as set forth in § 62.1-44.32 of the Code of Virginia.

1. For purposes of this subsection, the term "owner" shall include the definition contained in § 9 (i) subsection (i) of § 8 and, in addition, any corporate officer designated in the permit issued by the District, if any.

2. With the consent of any owner who has violated a provision of this subsection, or is charged by the District with having violated the provision of this subsection, the District may provide, in an order issued by it against such owner, for the payment of civil charges for such violations in specific sums not to exceed those set forth in § 62.1-44.32 of the Code of Virginia for each violation. Each day of violation shall constitute a separate offense. Such civil charges shall be instead of any appropriate civil or criminal penalty imposed under the provisions of this subsection.

§ 12. The Commission is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the District for any one or more of the following purposes:

(a) refunding any bonds heretofore issued by the Commission and any revenue bonds, notes and other obligations issued under the provisions of this act and then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption thereof; provided, however, that no bonds issued after the effective date of this act shall be refunded at a net interest cost exceeding that of such bonds to be refunded *unless, prior to the issuance of such refunding bonds, the Commission shall have determined that the issuance of such refunding bonds will be in the best interests of the District,*

(b) paying the cost of a sewage disposal system or systems,

(c) paying the cost of extensions and additions thereto, and

(d) paying the cost of sewer improvements.

§ 13. The principal of and the interest on revenue bonds issued under the provisions of this act shall be payable solely from the funds therein provided for such payment. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Commission, *shall bear interest at such time or times and at such rate or rates as may be determined by the Commission,* and may be made redeemable before maturity, at the option of the Commission, at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such person or persons as at the actual time of the execution of such bond shall be the proper officer or officers to sign such bond although at the date of such bond such person or persons may not have been such officer or officers. The bonds may be issued in coupon or in registered form, or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the District; ~~but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent per~~

annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values excluding, however, from such computation, the amount of any premium to be paid on the redemption of any bonds prior to maturity.

§ 21. In the discretion of the Commission the revenue bonds of any issue may be secured by a trust agreement by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Any such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any sewage disposal system or sewer improvements or any part thereof. Any such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the acquisition of property and the construction, improvement, extension, enlargement, reconstruction, maintenance, equipment, repair, operation and insurance of the properties of the District, and the custody, safeguarding and application of all moneys. Any such trust agreement may provide for or permit the issuance of additional bonds from time to time for the further extension of the sewerage system. *If the Commission issues bonds that may be tendered for purchase by the holders thereof, any such trust agreement may provide that, for all purposes of the laws of the Commonwealth, the indebtedness of the District evidenced by such bonds shall not be deemed extinguished upon the purchase thereof by the District unless such bonds are delivered by the District to the trustee under such trust agreement with written instructions to cancel such bonds.* It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement or resolution may be treated as a part of the cost of operation.

No such trust agreement or resolution need be filed or recorded except in the records of the Commission.

§ 40. No county, city, town or other political subdivision or person or corporation, public or private, shall discharge, or suffer to be discharged, directly or indirectly into any waters within the District any sewage, industrial wastes or other refuse which may or will cause or contribute to pollution of any such waters. No county, city, town or other political subdivision or person or corporation, public or private, shall discharge, or suffer to be discharged, directly or indirectly, into any sewage disposal system or any other facilities of or provided by the Commission, any matter or thing which is or may be injurious or deleterious to such sewage disposal system or other facilities. No county, city, town or other political subdivision or person or corporation, public or private, shall plan, construct or place in service any new sewer improvement in the District which will or may thereafter be served by the Commission's sewerage system and which will or may thereafter, in the opinion of the Commission, cause overloading of the sewerage system or the entrance into the sewerage system of excessive ground or surface water or other matter or thing which is injurious or deleterious to the sewerage system. In order to carry out the provisions of this paragraph every county, city, town or other political subdivision or person or corporation, public or private, if requested by the Commission to do so, shall furnish to the Commission plans and specifications for such sewer improvements and shall provide access for Commission inspection of all new sewer construction work as it proceeds and of all construction records and materials used. In addition to other powers granted the Commission, it shall have the right to refuse service to any new sewer extension or improvement constructed or operated in violation of this paragraph.