

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 51

An Act to amend and reenact § 15.2-5136 of the Code of Virginia, relating to the rates and charges of a water or waste authority.

[S 1121]

Approved February 22, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5136 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5136. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed ~~ten~~ 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished by any system, or streetlight system in King George County, or *refuse collection and disposal system* or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;
2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;
3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;
4. Any other factor affecting the use of the facilities furnished; or
5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. Water and sewer rates, fees and charges established by any authority shall be fair and reasonable. An authority may charge fair and reasonable rates, fees, and charges to create reserves for expansion of its water and sewer or sewage disposal systems. Such rates, fees, and charges shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. However, any authority may charge and collect rates, fees, and charges to create a reserve fund for reasonable expansion of its water, sewer, or sewage disposal system. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;
2. The number and size of premises benefiting therefrom;
3. The number or average number of persons residing or working in or otherwise connected with such premises;
4. The type or character of such premises;
5. Any other factor affecting the use of the facilities furnished; or
6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. ~~No sewer, sewage disposal or storm water control~~ rates, fees or charges shall be fixed under subsections A through F ~~of this section or under subdivision 10 of § 15.2-5114~~ until after a public hearing at which all of the users of ~~such the systems or~~ facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems ~~or facilities, with the second notice being published~~ at least ~~sixty~~ 14 days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems ~~or facilities~~ or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. ~~No refuse collection and disposal rates, fees or charges shall be fixed under subsections A through F until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by a single publication in a newspaper having a general circulation in the area to be served by such systems at least fifteen days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, may be adopted and put into effect.~~

I. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G ~~or H~~ shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G ~~or H~~.

I. No rates, fees or charges established, fixed, changed or revised before January 1, 2013, by any authority pursuant to this section or to subdivision 10 of § 15.2-5114 shall be invalidated because of any defect in or failure to publish or provide any notice required under this section or any predecessor provision.