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SENATE BILL NO. 1448

Senate Amendments in [] — February 9, 2015

A *BILL to amend and reenact § 15.2-5158 of the Code of Virginia, relating to community development authorities.*

Patron Prior to Engrossment—Senator Vogel

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5158 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5158. Additional powers of community development authorities.

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

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, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary or desirable for development or redevelopment within or affecting the district or to meet the increased demands placed upon the locality as a result of development or redevelopment within or affecting the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the 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.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, 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 subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. 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 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 \$.25 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. ~~The proceeds of the special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds collected shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax 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 to the development authority without the prior approval of the local governing body.~~

4. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow

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60 removal, extra security personnel and equipment, recreational management and supervision, and grounds
61 keeping.

62 5. Finance the services and facilities it provides to abutting property within the district by special
63 assessment thereon imposed by the local governing body. All assessments pursuant to this section shall
64 be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24;
65 provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed
66 the full cost of the improvements, including without limitation the legal, financial and other directly
67 attributable costs of creating the district and the planning, designing, operating and financing of the
68 improvements which include administration of the collection and payment of the assessments and reserve
69 funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land
70 which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts
71 which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and
72 (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an
73 amount calculated to cover principal, interest and administrative costs in connection with any financing
74 by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any
75 assessments made pursuant to this section may be made effective as a lien upon a specified date, by
76 ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms
77 of the debt instruments financing the improvements. All assessments pursuant to this section may also
78 be made subject to installment payments and other provisions allowed for local assessments under this
79 section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such
80 special assessments which the locality elects to impose upon request of the development authority shall
81 be paid over to the development authority for its use under this chapter, subject to annual appropriation,
82 and may be used for no other purposes.

83 6. Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the
84 services and/or facilities provided, owned, operated, or financed by the authority benefiting property
85 within the district. Such rates, fees, and charges may be charged to and collected by such persons and in
86 such manner as the authority may determine from (i) any person contracting for the services or using the
87 facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served
88 by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by
89 the authority in connection with the provision of such services or facilities.

90 7. Purchase development rights that will be dedicated as easements for conservation, open space or
91 other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this
92 subdivision, "development rights" means the level and quantity of development permitted by the zoning
93 ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An
94 authority shall not use the power of condemnation to acquire development rights.

95 8. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable
96 governmental bodies and agencies having authority with respect to any area included therein, finance
97 and fund the acquisition of land within the district. All financing authority and methods provided by
98 subsections 2, 3, 4, 5, 6, and 7 shall be permitted for the acquisition of land as provided herein.

99 9. *Any special tax levied pursuant to subdivision 3 and any special assessment imposed pursuant to*
100 *subdivision 5, whether previously or hereafter levied or imposed, constitute a lien on real estate ranking*
101 *on parity with real estate taxes, and any such delinquent special tax or delinquent special assessment*
102 *may be collected in accordance with the procedures set forth in Article 4 (§ 58.1-3965 et seq.) of*
103 *Chapter 39 of Title 58.1, provided that the enforcement of the lien for any special assessment under*
104 *subdivision 5 made subject to installment payments shall be limited to the installment payments due or*
105 *past due at the time the lien is enforced through sale in accordance with Article 4 (§ 58.1-3965 et seq.)*
106 *of Chapter 39 of Title 58.1, and any sale to enforce payment of any delinquent taxes, assessments, or*
107 *other levies shall not extinguish installment payments that are not yet due.*

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

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

112 [**3. That the provisions of this act are not intended to reverse the decision in CVAS 2, LLC v. City**
113 **of Fredericksburg (Record No. 140505, January 8, 2015) as to CVAS 2, LLC, the Petitioner in such**
114 **case.]**