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SENATE BILL NO. 1305

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on January 29, 2019)

(Patron Prior to Substitute—Senator Edwards)

A *BILL to amend and reenact § 15.2-928 of the Code of Virginia, relating to recycling and waste disposal; unpaid fees; lien.*

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-928 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-928. Local recycling and waste disposal; powers; penalties.

A. Any locality may (i) provide and operate, within or outside its boundaries, solid waste management facilities and appurtenances for the collection, management, recycling and disposal of solid waste, recyclable materials, and other refuse of the residents and businesses of the locality; (ii) contract with other localities to provide such services jointly; (iii) contract with others for supplying such services; (iv) contract with any locality or agency of the Commonwealth to provide such services for either entity; (v) prohibit the disposal of garbage or recyclable materials in or at any place other than that provided by the public or private sector for the purpose; (vi) charge and collect compensation for such services; (vii) regulate the times and placement of waste and waste containers set out for collection, such regulation to require notice so as to allow removal by the owner of the waste or waste containers prior to imposition of a civil penalty, provided that, in the City of Roanoke, provided the third notice required herein included an opportunity for the owner to be heard, the civil penalty may be imposed without further notice after the third notice for violation; (viii) provide penalties, including either criminal or civil penalties, for the unauthorized use of or failure to use such facilities. Prosecution of either a civil or criminal offense shall preclude prosecution of the other for the same offense; and (ix) grant incentives to encourage recycling.

B. Any locality may by ordinance limit the use of solid waste depositories or receptacles, owned or maintained by the locality, to the disposal of garbage and other solid waste originating from within the boundaries of such locality. Any locality adopting such an ordinance may provide penalties for its violation pursuant to subsection A.

C. *In the event that charges are not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by law, determined by the locality until such time as the overdue payment and interest are paid. If such charges are combined with real estate taxes, the charges, and any interest thereon, shall constitute a lien against the real property identified in the billing, ranking on a parity with liens for unpaid taxes.*

The locality may combine the billings for recycling and waste disposal charges with billings for water or sewer charges, stormwater charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which payments will be applied to the different charges. No locality shall combine its billings with those of another locality or political subdivision, including an authority operating pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

D. For the purposes of this section, recyclable materials shall be those materials identified in a plan adopted pursuant to § 10.1-1411 and regulations promulgated thereunder. Nothing in this section shall invalidate the actions of any locality taken prior to enactment of this section. Nothing in this section shall be construed as prohibiting any generator of recyclable materials from selling, conveying or arranging for transportation of such materials to a recycler for reuse or reclamation, nor preventing a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop box or any generator of recyclable materials.