

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 12

An Act to amend and reenact §§ 15.1-320, 15.1-321, 15.1-1250, 15.1-1260, 15.1-1261, 21-118.4 and 21-118.5 of the Code of Virginia, relating to water and sewer connection fees.

[H 1513]

Approved February 7, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-320, 15.1-321, 15.1-1250, 15.1-1260, 15.1-1261, 21-118.4 and 21-118.5 of the Code of Virginia are amended and reenacted as follows:

§ 15.1-320. Governing body of county, city or town authorized to establish, etc., sewage disposal system; incidental powers.

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, the governing body of any county, city or town, hereinafter referred to as governing body, shall have power and authority:

1. To 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. To acquire by purchase, gift, condemnation or otherwise, real estate, or rights or easements therein, necessary or convenient for 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 the right to dispose of property so acquired no longer necessary for the use of such system. However, any county, city or town condemning property hereunder shall rest under obligation to furnish sewage service, to the customers of any corporation whose property is condemned, at appropriate rates.

3. To borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of such county, city or town, as hereinafter provided in §§ 15.1-322 through 15.1-325.

4. To 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 to 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. To 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. To 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 county, city or town, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. To fix, charge and collect fees, rents or other charges for the use and services of the sewage disposal system. *Water and sewer connection fees established by any county, city or town shall be fair and reasonable. Such fees shall be reviewed by the county, city or town 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. In order to finance in whole or in part the cost of establishing, constructing, improving or enlarging sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation, to fix, charge and collect fees, rents and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any county, city or town, and such fees, rents and charges may be fixed and collected in accordance with and subject to the provisions of § 15.1-321 of this article.

§ 15.1-321. Fees, rents and charges.

Such fees, rents and charges may be charged to and collected from: (i) any person contracting for the same; (ii) the owner or lessee or tenant, or some or all of them who use or occupy any real estate (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system; or (iii) any user of a municipality's water or sewer system with respect to combined sanitary and stormwater sewer systems where the user is a resident of the

municipality and the purpose of any such fee, rent or charge is related to the control of combined sewer overflow discharges from such systems. Such fees, rents and charges shall be practicable and equitable and payable as directed by the respective county, city or town operating or providing for the operation of the water or sewer system.

Such fees, rents and charges, being in the nature of use or service charges, shall, as nearly as the governing body shall deem practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system, and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the sewage disposal system, or on any combination of such factors, or on such other basis as the governing body may determine. Such fees, rents and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees, rents and charges is hereby declared to be revenue of such sewage disposal system.

Water and sewer connection fees established by any county, city or town shall be fair and reasonable. Such fees shall be reviewed by the county, city or town 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.

In the event the fees, rents or charges charged for the use and services of the sewage disposal system by or in connection with any real estate shall not be paid when due, interest shall at that time begin to accrue thereon at the rate of one percent per month, and the owner, lessee or tenant, as the case may be, of such real estate shall, until such fees, rents and charges shall be paid with such interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system, and if such owner, lessee or tenant shall not cease such disposal within two months thereafter, the county, city or town or person or corporation supplying water for the use of such real estate shall cease supplying water thereto unless the health officers shall certify that shutting off the water will endanger the health of the occupants of the premises or the health of others.

Such fees, rents and charges and interests thereon shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. Such amounts, plus reasonable attorney's or collection agency's fees which shall not exceed twenty percent of the delinquent tax bill, may be recovered by the county, city or town by action at law or suit in equity.

§ 15.1-1250. Powers of authority.

Each authority created hereunder shall be deemed to be an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such authority is hereby authorized and empowered:

(a) To have existence for a term of fifty years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions then members of the authority; provided, however, that the term of an authority shall not be extended beyond a date exceeding fifty years from the date of the adoption of such resolutions;

(b) To adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

(c) To adopt an official seal and alter the same at pleasure;

(d) To maintain an office at such place or places as it may designate;

(e) To sue and be sued;

(f) To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any water system, or sewer system, or sewage disposal system, or a garbage and refuse collection and disposal system or any combination of such systems within, without, or partly within and partly without one or more of the political subdivision or subdivisions by action of whose governing body or governing bodies the authority was created, or who may after February 27, 1962, join such authority and to lease as lessee or otherwise contract for the provision of a street light system in a county having a population between 13,200 and 14,000 according to the 1990 United States Census, provided that the lessor or other contractual provider of such system shall be a public service corporation which holds a certificate of public convenience and necessity to provide retail electric service in the territory in which such system shall be located; and to acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, without, or partly within and partly without one or more of the political subdivision or subdivisions by action of whose governing body or governing bodies the authority was created, or who may after February 27, 1962, join such authority; and to sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein at any time acquired by it; provided, that in the exercise of the right of

eminent domain the provisions of § 25-233 shall apply. In addition, the authority in any county or city to which §§ 15.1-335 and 15.1-340 are applicable shall have the same power of eminent domain and shall follow the same procedure therefor as provided in §§ 15.1-335 and 15.1-340 of the Code of Virginia; and provided, further, that no property or any interest or estate therein owned by any county, city, town or other political subdivision of the Commonwealth shall be acquired by the exercise of the power of eminent domain without the consent of the governing body of such county, city, town or political subdivision; and except as otherwise herein provided, each authority is hereby vested with the same authority to exercise the power of eminent domain as is vested in the Commonwealth Transportation Commissioner;

(g) To issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a water system, sewer system, or sewage disposal system, or a garbage and refuse collection and disposal system, or any combination of such systems;

(h) To combine any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system as a single system for the purpose of operation and financing;

(h1) To borrow at such rates of interest as may be authorized at general law for authorities and as the authority may determine and to issue its notes, bonds or other obligations therefor. Any political subdivision which is a member of an authority may lend, advance or give money to such authority;

(i) To fix, charge and collect rates, fees and charges for the use of or for the services furnished by or for the benefit from any system operated by the authority. Such rates, fees, rents and charges shall be charged to and collected from any person contracting for the same; or lessee or tenant, or some or all of them, who uses or occupies any real estate which is served by or benefited from any such system. *Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority 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;*

(j) To enter into contracts with the federal government, the Commonwealth of Virginia, the District of Columbia and any adjoining state, or any agency or instrumentality thereof, or with any unit, private corporation, copartnership, association, or individual providing for or relating to the furnishing of services and facilities of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system of the authority or in connection with the services and facilities rendered by any such system owned or controlled by the federal government, the Commonwealth of Virginia, the District of Columbia or any adjoining state, or any agency or instrumentality thereof, and any unit, private corporation, copartnership, association or individual, including contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the garbage or refuse generated or collected by or within the jurisdiction or under the control of any one or more of them and in implementation of any such contract to exercise the powers set forth in §§ 15.1-857 and 15.1-11.5:3;

(k) To contract with the federal government, the Commonwealth of Virginia, the District of Columbia and any adjoining state, or with any municipality, county, corporation, individual or any public authority or unit thereof, on such terms as the said authority shall deem proper, for the construction, operation or use of any project which is located partly or wholly outside the Commonwealth of Virginia;

(l) To make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted by this chapter, including contracts with any federal agency, the Commonwealth of Virginia, the District of Columbia and any adjoining state, or with any unit thereof, on such terms and conditions as the authority may approve, relating to (1) the use of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or streetlight system in a county having a population between 13,200 and 14,000 according to the 1990 United States Census acquired or constructed by the authority under this chapter, or the services therefrom or the facilities thereof, or (2) the use by the authority of the services or facilities of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or streetlight system in a county having a population between 13,200 and 14,000 according to the 1990 United States Census owned or operated by an owner other than the authority. Any such contract shall be subject to such provisions, limitations or conditions as may be contained in the resolution of the authority authorizing revenue bonds of the authority or the provisions of any trust agreement securing such bonds. Any such contract may provide for the collecting of fees, rates or charges for the services and facilities rendered to a unit or to the inhabitants thereof, by such unit or by its agents or by the agents of the authority, and for the enforcement of delinquent charges for such services and facilities. The provisions of any such contract and of any ordinance or resolution of the governing body of a unit enacted pursuant thereto shall be irrevocable so long as any of the revenue bonds issued under the authority of this chapter shall be outstanding and unpaid, and the provisions of any such contract, and of any ordinance or resolution enacted pursuant thereto shall be and be deemed to be for the benefit of such bondholders. The aggregate of any fees, rates or charges which shall be required to be collected pursuant to any such

contract or any ordinance or resolution enacted thereunder shall be sufficient to pay all obligations which may be assumed by the other contracting party. Each water company, which is a public utility supplying water to the owners, lessees or tenants of real estate which is or will be served by any sewer or sewage disposal system of an authority is authorized to act as the billing and collecting agent of the authority for any rates, fees, rents or charges imposed by the authority for the service rendered by such sewer or sewage disposal system and shall furnish to the authority copies of its regular periodic meter reading and water consumption records and other pertinent data as may be required for the authority to act as its own billing and collecting agent. The authority shall pay to such water company the reasonable additional cost of clerical services and other expenses incurred by the water company in rendering such services to the authority. Upon the inability of an authority and such water company to agree upon the terms and conditions under which the water company shall act as the billing and collecting agent of the authority, either or both may petition the State Corporation Commission for a determination of the terms and conditions under which the water company shall act as the billing and collecting agent of the authority. In the event that such water company acts as the billing and collecting agent of an authority it shall set forth separately on its bills the rates, fees or charges imposed by the authority, but both the water and sewage disposal charges shall be payable to and collected by the water company, and payment of either shall be refused unless both shall be paid. The authority shall pay to the water company the cost of shutting off any water service on account of nonpayment of the sewage disposal charge. In the event of such discontinuance of water service the same shall not be reestablished until such time as the sewage disposal charge shall have been paid;

(m) To enter upon, use, occupy, and dig up any street, road, highway or private or public lands necessary to be entered upon, used or occupied in connection with the acquisition, construction or improvement, maintenance or operation of a water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or streetlight system in a county having a population between 13,200 and 14,000 according to the 1990 United States Census, subject, however, to such reasonable local police regulation as may be established by the governing body of any unit having jurisdiction in the particular respect. The governing body of any unit, notwithstanding any contrary provision of law, is hereby authorized and empowered to transfer jurisdiction over, to lease, lend, grant or convey, to the authority upon the request of the authority, upon such terms and conditions as the governing body of such unit may agree with the authority as reasonable and fair, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system by the authority including public roads and other property already devoted to public use. The Commonwealth of Virginia hereby consents to the use of all lands above or under water and owned or controlled by it which are necessary for the construction, improvement, operation or maintenance of any such system; except that the use of any portion between the right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the approval of the Commonwealth Transportation Commissioner. Whenever any railroad tracks, pipes, poles, wires, conduits or other structures or facilities which are located in, along, across, over or under any public road, street, highway, alley or other public right-of-way shall become an obstruction to, interfere with or be endangered by the construction, operation or maintenance of any system of the authority the governmental unit having ownership, control or jurisdiction over such public road, street, highway, alley or other public right-of-way may, as the exercise of an essential governmental function, order the safeguarding, maintaining, relocating, rebuilding, removing and replacing of such railroad tracks, pipes, poles, wires, conduits or other structures or facilities by the owner thereof at the expense of the authority, and subject to the provisions of § 25-233 of the Code of Virginia;

(n) In the event of any annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, to continue to do business, exercise its jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force;

(o) The articles of incorporation of any authority created under the provisions of this chapter may be amended with respect to the name or powers of such authority or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority. All amendments heretofore adopted in accordance with the provisions of this section and all proceedings heretofore taken pursuant to any such amendment are hereby validated, ratified, approved and confirmed;

(p) To enter into contracts with any political subdivision, federal agency, corporation, copartnership, association, individual or any public authority or unit of this Commonwealth, on such terms as said authority shall deem proper, for the purpose of acting as a billing and collecting agent for sewer service or sewage disposal service fees, rents or charges imposed by any such body;

(q) To establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties and towns are permitted under §§ 51.1-801 and 51.1-802, and all such plans or systems heretofore established by any authority are hereby validated;

(r) Notwithstanding any contrary provision of law in this chapter, an authority created pursuant to the provisions of this chapter is hereby authorized and empowered to lease as lessee or otherwise contract for the provision of, operate and maintain streetlights in a county having a population between 13,200 and 14,000 according to the 1990 United States Census; provided, that the lessor or other contractual provider of such streetlights shall be a public service corporation which holds a certificate of public convenience and necessity to provide retail electric service in the territory in which such streetlights are located. Such county may contribute funds to the authority by act of its governing body for use by the authority in carrying out the authority's powers listed in this subdivision. In addition, the authority may fix, charge and collect rates, fees and charges for the use of such service described herein or for the service described herein furnished by the authority and shall be charged to and collected from any person contracting for the same, or lessee, or tenant or any other person who uses or occupies any real estate served by or benefiting from such service described herein.

Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of ninety days for such delinquency. No authority shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No authority shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

§ 15.1-1260. Rates and charges.

The authority is hereby authorized to fix and revise from time to time rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed ten percent on delinquent accounts, and interest on the principal), subject to the provisions hereinafter provided, for the use of and for the services furnished or to be furnished by any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or streetlight system in a county having a population between 13,200 and 14,000 according to the 1990 United States Census owned, operated or maintained by the authority, or facilities incident thereto, and on account of which the authority shall have 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, on account of which such bonds are 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 the same shall 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 and such rates, fees and charges shall be subject to the jurisdiction of the State Corporation Commission and to any applicable regulation of the State Corporation Commission or law appertaining thereto.

The rates for water, including fire protection, and sewer service, including disposal, respectively, shall be sufficient to cover the expenses necessary or properly attributable to the furnishing of the class of services for which charges are made; provided, however, that 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 upon the revenue bonds issued on account of such sewer and/or disposal system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes. Rates, fees and charges for the services of a sewer and/or disposal system shall be just and equitable, and may be based or computed either upon the quantity of water used or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon the type or character of such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors; provided, however, that the authority may fix rates and charges for services of its sewer 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 upon the revenue bonds issued on account of such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority 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.

Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based or computed either upon the quantity of such system used, or upon the number and size of

premises benefiting therefrom, or upon the number or average number of persons residing or working in or otherwise connected with such premises, or upon the type or character of such premises, or upon any other factor affecting the use of the facilities furnished, or upon 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.

The authority may also fix rates and charges for the services and facilities of a water system or a garbage and 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 or energy and all or any part of the principal of or interest upon the revenue bonds issued on account of 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.

No sewer, sewage disposal, or garbage and refuse collection and disposal rates, fees or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of such facilities and owners, tenants or occupants of property served or to be served thereby and all others interested shall have 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 such public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, which publications shall be at least six days apart, in a newspaper having a general circulation in the area to be served by such systems at least sixty days before the date fixed in such notice for the hearing, which may be adjourned from time to time. A copy of such notice shall be mailed to the governing bodies of all local governments in the area served by the authority. After such hearing such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect. A copy of the schedule or schedules of such rates, fees and charges finally fixed in such resolution shall be kept on file in the office of the clerk or secretary of the governing body of each political subdivision in which such systems or any part thereof is located, and shall be open to inspection by all parties interested. 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 any hearing or notice. Any change or revision of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinabove provided.

§ 15.1-1261. Water and sewer connections.

Upon the acquisition or construction of any water system or sewer system under the provisions of this chapter, the owner, tenant, or occupant of each lot or parcel of land which abuts upon a street or other public way containing a water main or a water system, a sanitary sewer which is a part of or which is served or may be served by such sewer system and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, shall, if so required by the rules and regulations or a resolution of the authority, with concurrence of such local government, municipality, or county that may be involved, connect such building with such water main or sanitary sewer, and shall cease to use any other source of water supply for domestic use or any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the authority, which rules and regulations may provide for a charge for making any such connection in such reasonable amount as the authority may fix and establish. A private water company which purchases water from a regional authority for sale or delivery to or within a municipal corporation may impose a charge for connection to the water company's system in the same manner, and subject to the same restrictions, as an authority may impose a charge for connection to its water system, subject to the approval of the State Corporation Commission.

Notwithstanding any other provision of this chapter, those persons having a domestic supply or source of potable water shall not be required to discontinue the use of same. However, persons not served by a water supply system as defined in § 15.1-341 producing potable water meeting the standards established by the Virginia Department of Health may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges. In York County and James City County such monthly nonuser fee may be as provided by general law or not more than eighty-five percent of the minimum monthly user charge imposed by the authority, whichever is greater.

Notwithstanding any other provision of this chapter, those persons having a private septic system or domestic sewage system meeting applicable standards established by the Virginia Department of Health shall not be required under this chapter to discontinue the use of same. However, such persons may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which

charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges.

Persons who have obtained exemption from or deferral of taxation pursuant ordinance authorized by § 58.1-3210 may be exempted or deferred by the authority from paying any charges and fees authorized by the preceding paragraph, to the same extent as the exemption from or deferral of taxation pursuant to such ordinance.

Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority 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.

§ 21-118.4. Certain additional powers of governing body.

Notwithstanding any other provisions of law, when an order has been entered creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors," shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to and operate motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain and operate, or to contract for such acquisition, construction, maintenance and operation, within such sanitary district, such community buildings, community centers, other recreational facilities and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease or otherwise, and to maintain and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority or the federal government or any agency thereof for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a fifty-dollar fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least ten days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until ten days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.1-504 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed ten percent of the amount due or ten dollars, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers, person or persons as it may determine, and the officer or officers, person or

persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district 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.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within thirty days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such thirty-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within thirty days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest, shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such thirty-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia, to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within sixty days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.1-326.1; and shall be repaid not later than either December 15 of the year in which they are borrowed or fifteen days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of ninety days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

§ 21-118.5. Unified water supply and sewerage systems for counties and sanitary districts; power of county governing body to fix rates; application of Public Finance Act.

Whenever the board of supervisors of any county, as the governing board of such county, shall enter into, or has heretofore entered into, an agreement with one or more sanitary districts located within such county whereby the county has agreed to connect, operate, maintain, alter, improve, add to and extend within and without the territory of such sanitary district or districts the water supply or sewerage systems, or the water supply and sewerage systems, of such county and such district or districts, or the water supply or sewerage systems, or the water supply and sewerage systems, of two or more such sanitary districts, in the manner of and as a unified single water supply or sewerage system, or a unified single water supply and sewerage system, each of which is hereinafter referred to in this chapter as a "unified system," then, notwithstanding the provisions of the first sentence of § 21-118.4 (e), such board of supervisors is empowered to fix and prescribe the rate of charge for the use of such unified system with a view to the needs of such unified system as a whole. Such unified system shall constitute a "project" and a "revenue producing undertaking" for the purposes of and as defined in the Public Finance Act, Chapter 5.1 (§ 15.1-227.1 et seq.) of Title 15.1. Such county in respect of such project and

revenue producing undertaking shall have all the powers granted to counties by the Public Finance Act. *Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district 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.*