

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 527

*An Act to amend and reenact §§ 15.1-1240, 15.1-1241, 15.1-1250, 15.1-1252, 15.1-1258, 15.1-1259, 15.1-1260, and 15.1-1268 of the Code of Virginia, relating to the Water and Sewer Authorities Act.*

[S 866]

Approved March 19, 1997

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.1-1240, 15.1-1241, 15.1-1250, 15.1-1252, 15.1-1258, 15.1-1259, 15.1-1260, and 15.1-1268 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-1240. Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another meaning or intent:

(a) The word "authority" shall mean an authority created under the provisions of § 15.1-1241 or, if any such authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this chapter to such authority shall be given by law.

(b) The word "county" shall mean any county in the Commonwealth of Virginia.

(c) The word "municipality" shall mean any city or town incorporated under the laws of the Commonwealth of Virginia.

(d) The word "unit" shall mean any department, institution or commission of the Commonwealth of Virginia and any public corporate instrumentality thereof, and any district, and shall include counties and municipalities.

(e) The term "political subdivision" shall mean a county or municipality and any institution or commission of the Commonwealth of Virginia.

(f) The term "governing body" shall mean in the case of a county the board of supervisors and in the case of a municipality the board, commission, council or other body by whatever name it may be known, in which the general legislative powers of the municipality are vested.

(g) The term "water system" shall mean all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water, or facilities incident thereto, and any integral part thereof, including water supply systems, water distribution systems, dams and facilities for the generation or transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances, and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof but not including dams or facilities for the generation or transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water.

(h) The term "sewer system" or "sewage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial wastes or other wastes to a plant of ultimate disposal.

(i) The term "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 buildings, together with such surface or ground water and household and industrial wastes as may be present.

(j) The term "sewage disposal system" means any system, plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

(k) The term "garbage and refuse collection and disposal system" means a system, plant or facility designed to collect, manage, dispose of, and/or recover and use energy from garbage and refuse and the land, structures, vehicles and equipment for use in connection therewith.

(l) The word "improvements" shall mean such repairs, replacements, additions, extensions and betterments of and to a water system, a sewer system, a sewage disposal system, a *stormwater control system*, or a garbage and refuse collection and disposal system, as are deemed necessary by the authority to place or to maintain such system in proper condition for the safe, efficient and economic operation thereof or to meet requirements for service in areas which may be served by the authority and in which no existing service is being rendered.

(m) The term "cost of improvements" shall mean the cost of constructing improvements as hereinabove defined and shall embrace the cost of all labor and material, the cost of all lands, property, rights, easements, franchises, and permits acquired which are deemed necessary for such construction,

interest during any period of disuse during such construction, the cost of all machinery and equipment, financing charges, cost of engineering and legal expenses, plans, specifications, and such other expenses as may be necessary or incident to such construction.

(n) The word "cost" as applied to a water system, a sewer system, a sewage disposal system, *a stormwater control system*, or a garbage and refuse collection and disposal system, shall include the purchase price of any such system or the cost of acquiring all of the capital stock of the corporation owning such system and the amount to be paid to discharge all of its obligations in order to vest title to the system or any part thereof in the authority, the cost of improvements, the cost of all lands, properties, rights, easements, franchises and permits acquired, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, any deposit to any bond interest and sinking fund reserve account, cost of engineering and legal services, plans, specifications, surveys, estimates of costs and of revenues, other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, improvement, or construction, administrative expenses, and such other expenses as may be necessary or incident to the financing herein authorized, to the acquisition, improvement, construction of a water system, a sewer system, a sewage disposal system, *a stormwater control system*, or a garbage and refuse collection and disposal system, and the placing of the same in operation by the authority. Any obligation or expense incurred by the authority in connection with any of the foregoing items of cost and any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions of this chapter for engineering studies and for estimates of cost and of revenues and for other technical or professional services which may be utilized in the acquisition, improvement or construction of such system, may be regarded as a part of the cost of such system.

(o) The term "federal agency" shall mean and include the United States of America, any department or bureau thereof, the Federal Works Agency, the Reconstruction Finance Corporation, and any other agency or instrumentality of the United States of America heretofore established or which may be established or created hereafter.

(p) The word "owner" shall include all individuals, incorporated companies, copartnerships, societies or associations, and any federal agency or unit of the Commonwealth having any title or interest in any water system, or sewer system, or sewage disposal system, *a stormwater control system*, or a garbage and refuse collection and disposal system, or the services or facilities to be rendered thereby.

(q) The words "bonds" or "revenue bonds," wherever used, include notes, bonds, bond anticipation notes, or other obligations.

(r) The term "garbage and refuse," means all solid waste, which shall mean not only any material customarily referred to as garbage and refuse, but also sludge and other discarded material, including solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations and from community activities and residences, but does not include (i) solid and dissolved materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

(s) *The term "stormwater control system" means a structural system of any type that is designed to manage the runoff from land development projects or natural systems designated for such purposes, including, without limitation, retention basins, ponds, wetlands, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system.*

§ 15.1-1241. One or more political subdivisions may create authority.

A. The governing body of a political subdivision may by ordinance or resolution, or the governing bodies of two or more political subdivisions may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, *a stormwater control authority*, or a garbage and refuse collection and disposal authority, or any combination or parts thereof under an appropriate name and title, containing the word "authority," which shall be a public body politic and corporate. Such ordinance, resolution or agreement shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum as hereinafter provided, if one be ordered.

B. The owners of at least fifty-one percent of the land area or assessed value of land which is within the boundaries of a proposed authority district in any city; or, which (i) in any county with a population of at least 75,000, contains at least 250 acres, (ii) in any county with a population of less than 50,000 through which an interstate highway passes, and which contains at least 3000 acres, a portion of which lies within two miles of the centerline of the right-of-way of an interstate highway, or (iii) in any county with a population between 50,000 and 75,000 through which an interstate highway passes, contains at least 250 acres, may petition for the creation of a community development authority therein, which shall be a public body politic and corporate. However, in any eligible county, the minimum acreage required for a proposed authority district shall be 100 acres for commercial property or for mixed use commercial-zoned and residential-zoned property. Counties over 50,000 in population may modify

minimum district size limits where amounts financed equal or exceed three million dollars. Proposed districts which are within any two or more of a city, a qualifying county or a town may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the district. In counties not otherwise authorized above, and in any town, the county board or town council, following a public hearing, may adopt an ordinance electing to assume the powers conferred by this subsection. If such an ordinance is adopted, the county may thereafter consider petitions for the creation of community development authorities for districts pursuant to this chapter and shall have all of the powers, duties and limitations of this chapter applicable to such authorities. Such petitions shall:

1. Set forth the name and describe the boundaries of the proposed district;
2. Describe the services and facilities proposed to be undertaken by the development authority within the district;
3. Describe a proposed plan for providing and financing such services and facilities as proposed within the district;
4. Describe the benefits which can be expected from the provision of such services and facilities by the development authority within the district;
5. Provide that the members of the development authority selected under the applicable provisions of § 15.1-1249 shall consist of a majority of petitioning landowners or their designees or nominees; and
6. Request the local governing body to establish the proposed development authority for the purposes set forth in the petition.

An ordinance or resolution creating such development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be given by publication once a week for three successive weeks in a newspaper of general circulation within the locality, and the hearing shall not be held sooner than ten days after completion of such publication. The petitioning landowners shall bear the expense of such publication. An ordinance or resolution adopted or approved under this subsection shall not be inconsistent with the petition creating the development authority. Nor shall such ordinance or resolution permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority then in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the operational or financial condition of such existing authority. Such certification shall not be unreasonably withheld by the existing authority. After the public hearing, the local governing body shall deliver a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Any petitioning landowner shall then have thirty days in which to withdraw his signature on the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are withdrawn as provided herein, the local governing body may pass the proposed ordinance or resolution in conformance herewith only upon certification that the petition continues to meet the provisions of this subsection with respect to minimum acreage or assessed value as the case may be. The local governing body, upon approving the resolution creating the district, shall direct that a copy of the resolution be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this subsection, "parcel" is to be defined as tax map parcel.

#### § 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, *stormwater control 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, *stormwater control 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, *stormwater control 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;

(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, *stormwater control 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, *stormwater control 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, *stormwater control 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, *stormwater control 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, *stormwater control 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.

#### § 15.1-1252. Issuance of revenue bonds.

An authority created under the provisions of this chapter is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any water system, sewer system, sewage disposal system, *stormwater control system*, or garbage and refuse collection and disposal system, or any combination of any thereof or, for authorities created under § 15.1-1241 B, such other facilities which may be provided by the authority under § 15.1-1250.03. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The full faith and credit of the political subdivision shall not be pledged to support the bonds. The bonds of each issue shall be dated, shall bear interest at such rate or rates as may be authorized at general law for authorities, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, 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. All revenue bonds issued under the provisions of this chapter shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority 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, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the authority may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interest of the authority and the political subdivisions to be served thereby.

#### § 15.1-1258. Exemption from taxation.

No authority shall be required to pay any taxes or assessments upon any water or sewer system, sewage disposal system, *stormwater control system*, or garbage and refuse collection and disposal system acquired or constructed by it under the provisions of this chapter or upon the income therefrom, and the

bonds issued under the provisions of this chapter, their transfer and the income therefor (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth.

§ 15.1-1259. Trust agreement; bond resolution.

In the discretion of the authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any water system, sewage disposal system, sewer system, *stormwater control system*, or garbage and refuse collection and disposal system or any part thereof, or any improvement financed pursuant to § 15.1-1250.03 which is, or will be, dedicated to a public entity, provided that a bond issued by a development authority pursuant to subdivision 2 of § 15.1-1250.03 may pledge or assign a mortgage in other real property or improvements not otherwise proscribed hereunder and 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 authority in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the system or systems on account of which such bonds are issued and provisions for the custody, safeguarding and application of all moneys and for the employment of consulting engineers in connection with such construction, reconstruction, or operation. Such resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition to the foregoing, such resolution or trust agreement may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. Except as in this chapter otherwise provided, the authority may provide for the payment of the proceeds of the sale of the bonds and its revenues to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

§ 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, *stormwater control 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.

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, *stormwater control*, 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.

#### § 15.1-1268. Jurisdiction of Water Control Board.

Any authority created under the provisions of this chapter shall be and is hereby declared to be an "owner" as such word is defined in the State Water Control Law and any authority so created shall be subject in all respects to the jurisdiction of the State Water Control Board under the provisions of the State Water Control Law. No authority created under the provisions of this chapter shall so operate any water system, sewer system, sewage disposal system, *stormwater control system*, or garbage and refuse disposal system which in its operation results in the discharge of "sewage," "industrial wastes" or "other wastes" as such terms are defined in the State Water Control Law, which would flow or be discharged into any "State waters" as defined in the State Water Control Law and thereby cause a pollution of the same unless such authority shall first provide proper and adequate treatment of such "sewage," "industrial wastes" or "other wastes" approved by the State Water Control Board so that if and when flowing or discharged into the state waters the effluence thereof shall not be detrimental to the public health or to animal or aquatic life or prevent the use of water for domestic, industrial or recreational purposes. When in the opinion of the State Water Control Board the discharge of such wastes is not detrimental to the public health or to animal or aquatic life or to the use of the water for domestic, industrial or recreational purposes, the State Water Control Board shall grant a certificate for the discharge of such wastes into the state waters, but the Board shall not issue a certificate authorizing the discharge of such wastes untreated into any state waters deemed by the Board to be clean. The procedure governing the issuance of a certificate to any authority shall be the same as is provided for the issuance of a certificate under the provisions of § 62.1-44.16. The State Water Control Board shall have the same authority over or with respect to any authority created under the provisions of this chapter or to any certificate issued to such authority by the Board as it does in the case of any person defined as an "owner" under the State Water Control Law; and any such authority shall have the same rights of review of and appeal from any rule, regulation, order or requirement issued by the Board or any revocation of a certificate by the Board as is the case with any other party aggrieved by any action of the Board under the provisions of the State Water Control Law.