

SENATE BILL NO. 503

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Local Government

on _____)

(Patron Prior to Substitute--Senator Lewis)

A BILL to amend and reenact §§ 62.1-199 and 62.1-203 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 62.1-218.1, relating to Virginia Resources Authority; planning district commissions; loans.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-199 and 62.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 62.1-218.1 as follows:

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land,

buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. The term also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § 36-156.1.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

53 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or
54 revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government
55 for the payment of money.

56 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
57 amount of money designated as the minimum capital reserve fund requirement which may be established
58 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
59 outstanding issue of bonds or credit enhancement.

60 "Project" means (i) any water supply or wastewater treatment facility, including a facility for
61 receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment,
62 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
63 recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining
64 state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility
65 located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority
66 and the governing body of the local government receiving the benefit of the loan, grant, or credit
67 enhancement from the Authority make a determination or finding to be embodied in a resolution or
68 ordinance that the undertaking and financing of such facility is necessary for the location or retention of
69 such facility and the related use by the federal government in the Commonwealth. The term includes,
70 without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage
71 facilities; water distribution facilities; sewage and wastewater (including surface and ground water)
72 collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment,
73 disposal, or management facilities; recycling facilities; resource recovery facilities; related office,
74 administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The
75 term also includes energy conservation measures and facility technology infrastructure as defined in §
76 45.2-1702 and other energy objectives as defined in § 45.2-1706.1. The term also means any heavy rail
77 transportation facilities operated by a transportation district created under the Transportation District Act
78 of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading
79 facilities, and any related marine or rail equipment. The term also means, without limitation, the design

and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1, any use of short-term loan funds by planning district commissions under § 62.1-218.1 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local

government to build or facilitate the building of a recovered gas energy facility; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

§ 62.1-203. Powers of Authority.

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;

2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of the Authority and the conduct of its business;

3. To sue and be sued in its own name;

4. To have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;

5. To maintain an office at any place within the Commonwealth which it designates;

6. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

134 7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any
135 part of its properties and assets;

136 8. To employ officers, employees, agents, advisers and consultants, including without limitations,
137 attorneys, financial advisers, engineers and other technical advisers and public accountants and, the
138 provisions of any other law to the contrary notwithstanding, to determine their duties and compensation
139 without the approval of any other agency or instrumentality;

140 9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,
141 against any loss, cost, or expense in connection with its property, assets or activities, including insurance
142 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the
143 indemnification of the members of its Board of Directors and its employees and agents;

144 10. To procure credit enhancements from any public or private entities, including any department,
145 agency or instrumentality of the United States of America or the Commonwealth, for the payment of any
146 bonds issued by the Authority, including the power to pay premiums or fees on any such credit
147 enhancements;

148 11. To receive and accept from any source aid, grants and contributions of money, property, labor
149 or other things of value to be held, used and applied to carry out the purposes of this chapter subject to the
150 conditions upon which the aid, grants or contributions are made;

151 12. To enter into agreements with any department, agency or instrumentality of the United States
152 of America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of
153 planning, regulating and providing for the financing of any projects;

154 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other
155 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,
156 including taking the action required by § 15.2-2659 or 62.1-216.1 to obtain payment of any unpaid sums;

157 14. To enter into contracts or agreements for the servicing and processing of local obligations
158 owned by the Authority;

159 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

16. Unless restricted under any agreement with holders of bonds, to consent to any modification with respect to the rate of interest, time and payment of any installment of principal or interest, or any other term of any local obligations owned by the Authority;

17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in connection with any activities or services of the Authority;

18. To do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this chapter; and

19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, from the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17, ~~or~~ from the Virginia Tobacco Region Revolving Fund pursuant to § 3.2-3117, or from the revolving fund for planning district commissions established pursuant to § 62.1-218.1. Notwithstanding the foregoing, any such transfer from the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds of the Authority issued to finance or refinance projects located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

§ 62.1-218.1. Short-term loans to planning district commissions.

The Authority shall have the power and is authorized to establish a perpetual and permanent revolving fund with any funds appropriated by the General Assembly to the Authority for the purpose of making short-term loans to any planning district commission created pursuant to the Regional Cooperation Act (§ 15.2-4200 et seq.). Loans shall be made for the purpose of providing short-term cash flow necessary for state and federal grants and loans that require the expenditure of funds prior to requesting reimbursement by the planning district commission. Loans made under this section shall be deemed in the public interest and support the purpose of planning district commissions under § 15.2-4207. The Authority shall establish guidelines for the administration of loan funds. Loan interest rates charged by the Authority

187 shall be set based on guidelines established for the administration of loan funds and based on prevailing
188 short-term interest rates. The guidelines may provide for the recovery of the Authority's costs of
189 administering the fund either from the fund or from the planning district commissions to which the loans
190 are made.

191 #