

HOUSE BILL NO. 947

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Hodges)

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,

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

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

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

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

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

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

50 "Local government" means any county, city, town, municipal corporation, authority, district,  
51 commission or political subdivision created by the General Assembly or pursuant to the Constitution and  
52 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

80 and construction of roads, the construction of local government buildings, including administrative and  
81 operations systems and other local government equipment and infrastructure, public parking garages and  
82 other public transportation facilities, and facilities for public transportation by commuter rail. In addition,  
83 the term means any project as defined in § 5.1-30.1, any use of short-term loan funds by planning district  
84 commissions under § 62.1-218.1 and any professional sports facility, including a major league baseball  
85 stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have  
86 been designated by the General Assembly as eligible for assistance from the Authority. The term also  
87 means any equipment, facilities, and technology infrastructure designed to provide broadband service.  
88 The term also means facilities supporting, related to, or otherwise used for public safety, including but not  
89 limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations.  
90 The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the  
91 release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation  
92 has not clearly been mandated by the United States Environmental Protection Agency, the Department of  
93 Environmental Quality, or a court pursuant to the Comprehensive Environmental Response,  
94 Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act  
95 (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water  
96 Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of  
97 those statutes has been waived. The term also means any program or project for land conservation, parks,  
98 park facilities, land for recreational purposes, or land preservation, including but not limited to any  
99 program or project involving the acquisition of rights or interests in land for the conservation or  
100 preservation of such land. The term also means any dredging program or dredging project undertaken to  
101 benefit the economic and community development goals of a local government but does not include any  
102 dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also  
103 means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or  
104 other material that will catch, support, and grow oysters. The term also means any program or project to  
105 perform site acquisition or site development work for the benefit of economic and community  
106 development projects for any local government. The term also means any undertaking by a local

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

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

120 **§ 62.1-203. Powers of Authority.**

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

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

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

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

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

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

132 6. To make and execute contracts and all other instruments and agreements necessary or  
133 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;

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

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

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

167 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of  
168 the Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from  
169 the Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund  
170 pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-  
171 241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, from the Dam Safety, Flood  
172 Prevention and Protection Assistance Fund pursuant to § 10.1-603.17, ~~or~~ from the Virginia Tobacco  
173 Region Revolving Fund pursuant to § 3.2-3117, or from the revolving fund for planning district  
174 commissions established pursuant to § 62.1-218.1. Notwithstanding the foregoing, any such transfer from  
175 the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds of the Authority  
176 issued to finance or refinance projects located in the tobacco-dependent communities in the Southside and  
177 Southwest regions of Virginia.

178 **§ 62.1-218.1. Short-term loans to planning district commissions.**

179 The Authority shall have the power and is authorized to establish a perpetual and permanent  
180 revolving fund with any funds appropriated by the General Assembly to the Authority for the purpose of  
181 making short-term loans to any planning district commission created pursuant to the Regional Cooperation  
182 Act (§ 15.2-4200 et seq.). Loans shall be made for the purpose of providing short-term cash flow necessary  
183 for state and federal grants and loans that require the expenditure of funds prior to requesting  
184 reimbursement by the planning district commission. Loans made under this section shall be deemed in the  
185 public interest and support the purpose of planning district commissions under § 15.2-4207. The Authority  
186 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.

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