

CODE OF VIRGINIA



Title 21

Drainage, Soil Conservation, Sanitation
and Public Facilities Districts

Title 21 - DRAINAGE, SOIL CONSERVATION, SANITATION AND PUBLIC FACILITIES DISTRICTS

Chapter 1 - SOIL CONSERVATION DISTRICTS LAW [Repealed]

§§ 21-1 through 21-112.21. Repealed.

Repealed by Acts 1988, c. 891.

Chapter 2 - SANITARY DISTRICTS

Article 1 - General Provisions

§ 21-112.22. Definitions.

Whenever the words "circuit court" are used in this chapter, they shall also be construed to mean "circuit or corporation court" of a city; whenever the word "county" appears in this chapter, it shall also be construed to mean "city," and whenever the words "governing body of a county" shall appear, they shall also be construed to mean "city council."

1964, c. 525.

§ 21-113. Creation; inclusion of town in new or enlarged district.

The governing body of a county in the Commonwealth, upon the petition of 50 qualified voters of a proposed district or, if the proposed district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters of the proposed district, may, by ordinance, create a sanitary district or districts in and for the county, which ordinance shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

1930, p. 1002; 1933, p. 32; 1936-7, p. 69; Michie Code 1942, § 1560m; 1970, c. 584; 2017, c. [14](#).

§ 21-114. Hearing and notice thereof.

Upon the filing of the petition, the governing body of a county shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a finding of fact of whether creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons who reside in or who own real property in (a) a proposed district or (b) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of

general circulation within the county to be designated by the governing body. At least 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be created until the notice has been given and the hearing had.

1930, p. 1002; 1940, p. 173; Michie Code 1942, § 1560n; 1985, c. 104; 2017, c. [14](#).

§ 21-115. Answer and defense.

Any person interested may answer the petition and make defense thereto; and if upon such hearing the governing body of a county be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

1940, p. 173; Michie Code 1942, § 1560n; 2017, c. [14](#).

§ 21-116. Enlargement of sanitary districts.

The governing body of a county, upon the petition of 25 percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may, by ordinance, extend the boundaries and enlarge any sanitary district created under the provisions of this article, which ordinance shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ [21-114](#) and [21-115](#), and the notice of such hearing may require all interested persons to appear and show cause why any special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § [21-118](#) may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such ordinance enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the district, and such ordinance shall expressly preserve and protect such rights and interests. All interested persons who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing.

1947, p. 136; Michie Suppl. 1948, § 1560s4; 1964, c. 517; 1985, c. 104; 2017, c. [14](#).

§ 21-116.1. Alteration of boundaries or reduction of area of sanitary districts in certain counties.

Chapter 549 of the Acts of 1950, as amended by Acts 1952, c. 202, relating to alteration of boundaries or reduction of area of sanitary districts in any county adjoining a county having a population in excess of 2,000 per square mile, is incorporated in this Code by this reference.

1950, c. 549; 1952, c. 202.

§ 21-117. Merger of sanitary districts.

Any two or more sanitary districts heretofore or hereafter created in any county under the provisions of this article may be merged into a single district by the governing body of the county, by ordinance, upon the petition of not less than 50 qualified voters residing within the boundaries of each of the districts desiring to be so merged, which ordinance shall prescribe the metes and bounds and the name or other designation of the single district created by such merger. From and after the adoption of such ordinance, the governing body of such county shall, as to the single districts so created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by § [21-118](#), and all funds then on hand to the credit of each of the districts so merged shall be merged into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the governing body of the county upon the hearing next herein provided for.

Upon the filing of the petition, a hearing shall be had before the governing body of the county, after notice as provided by § [21-114](#), which notice shall require all interested parties to appear and show cause, if any they can, (i) why the funds then on hand to the credit of each of the merged districts should not be merged into a single fund for the purpose above mentioned; and (ii) why a special tax should not be levied on all the property within the limits of the consolidated district, subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the principal at maturity of any then outstanding bonds theretofore issued by any one or more of the districts so merged.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the combination of the funds on hand to the credit of each of the districts so merged and the levying of a special tax on all the taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned, provided that such ordinance shall preserve and protect the rights of the holders of any such outstanding bonds, whose rights and interests shall not be limited or affected by any of the provisions of this section.

1942, p. 247; Michie Code 1942, § 1560s1; 2017, c. [14](#).

§ 21-117.1. Abolishing sanitary districts.

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article may be abolished by ordinance adopted by the governing body of such county, upon the petition of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished or, if the district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the governing body of the county shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the governing body of the county shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body of the county. At least 10 days shall intervene between the completion of the publication and the date set

for hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be abolished until the notice has been given and the hearing had.

Any interested parties may appear and be heard on any matters pertaining to the subject of the hearing.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the abolition of the district and as to the funds on hand to the credit of the district, provided, however, that no such ordinance shall be adopted abolishing the sanitary district unless any bonds of the sanitary district that have theretofore been issued have been redeemed and the purposes for which the sanitary district was created have been completed, or unless all obligations and functions of the sanitary district have been taken over by the county as a whole, or unless the purposes for which the sanitary district was created are impractical or impossible of accomplishment and no obligations have been incurred by said sanitary district.

1954, c. 135; 2017, c. [14](#).

§ 21-118. Powers and duties of governing body.

After the adoption of such ordinance creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.
2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.
3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.

4. 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. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.
5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § [21-118.4](#) (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.
6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ [58.1-3229](#) et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.
7. 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 and sidewalks.
8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter 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.
9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.
10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:
 - a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ [15.2-1908](#) et seq.) of Title 15.2, and by Chapter 2 (§ [25.1-200](#) et seq.) of Title 25.1;

b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ [25.1-300](#) et seq.) of Title 25.1; or

c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of Title 25.1.

11. To appoint, employ and compensate out of the funds of the district as many persons as special policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of the Commonwealth and of the county within such district. Such special policemen shall have, within such district and within one-half mile thereof, all of the powers vested in policemen appointed under the provisions of Article 1 (§ [15.2-1700](#) et seq.) of Chapter 17 of Title 15.2.

1930, p. 1002; 1934, p. 494; 1936, p. 463; 1938, p. 19; Michie Code 1942, § 1560a; 1952, c. 113; 1956, c. 588; 1960, c. 36; 1962, c. 497; 1976, cc. 585, 684; 1977, cc. 276, 516; 1981, c. 564; 2002, c. [194](#); 2003, c. [940](#); 2017, c. [14](#).

§ 21-118.1. Authority to acquire property from United States or any agency thereof.

Notwithstanding the provisions of any other law, the governing body of any sanitary district may, by ordinance or resolution, authorize the acquisition and purchase from the United States, or any agency thereof, whether now existing or hereafter created, of any equipment, supplies, materials, or other property, real or personal, in such manner as such governing body may determine.

It is the purpose of this section to enable sanitary districts to secure from time to time promptly the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends such districts shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

1945, p. 35; Michie Suppl. 1946, § 2734e.

§ 21-118.2. Certain counties authorized to use sanitary district funds for certain purposes.

The board of supervisors of any county operating sanitary districts under the provisions of this chapter as amended or under the provisions of an act or acts continued in effect by § [21-120](#), may use sanitary district funds for police protection and for construction and operation of community houses within the district, provided that this section shall apply only to Chesterfield County and Henrico County. Action hereunder shall be subject to the rights of the holders of any bonds issued by such district.

1952, c. 26; 2007, c. [813](#).

§ 21-118.3. Levy and expenditure of taxes in certain counties; validation of expenditures.

In addition to the powers granted in § [21-118](#) of the Code of Virginia, the governing body of any county having a population in excess of 30,000 but not in excess of 35,000 and containing two cities of the first class, in which a sanitary district has been created pursuant to the provisions of this article, may levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay the whole or any part of the cost of construction of a sewerage and/or water supply system in such district and to pay the costs of preliminary engineering surveys and other expenses in connection with the construction of any such system.

Such governing body may expend funds from the general county levy to pay the costs for which taxes are hereinabove authorized to be levied in anticipation of the collection of such taxes. Should it be determined that a sewerage and/or water supply system in such district is not feasible, or for any other reason should the same not be constructed, the governing body of said county, after the creation of such district has been ordered, may levy and collect an annual tax upon all the property within the boundaries of such sanitary district subject to local taxation, to reimburse the county's general levy fund for any expenditures advanced therefrom in connection with engineering surveys and other expenses in and about the creation of any such district. Any such expenditure made prior to April 3, 1952, is hereby validated.

1952, c. 555.

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

Notwithstanding any other provisions of law, when an ordinance has been adopted 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 dams, 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 dams, 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 dams, 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 \$50 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 hand-bill notices of such proposal in three or more public places in the sanitary district at least 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until 10 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 § [15.2-1427](#) 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 10 percent of the amount due or \$10, 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. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least 65 years of age or persons permanently and totally disabled as defined in § [58.1-3217](#). Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010. 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 or person or persons as it may determine, and the officer or officers or 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 30 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 30-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 30 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 30-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 60 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 [§ 2.2-5000](#); and shall be repaid not later than either December 15 of the year in which they are borrowed or 15 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 90 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.

1962, c. 571; 1964, c. 517; 1970, c. 674; 1975, cc. 251, 490; 1976, c. 684; 1977, c. 516; 1981, cc. 554, 563, 564; 1982, c. 447; 1983, c. 422; 1994, c. [432](#); 1997, c. [12](#); 2000, c. [230](#); 2011, cc. [438](#), [496](#); 2012, c. [485](#); 2017, c. [14](#).

§ 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 26 (§ [15.2-2600](#) et seq.) of Title 15.2. 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.

1972, c. 221; 1997, c. [12](#).

§ 21-118.6. Same; application of revenues; tax levy where revenues insufficient.

Whenever a county and one or more sanitary districts have entered into an agreement for a unified water supply or sewerage system, or unified water supply and sewerage system, and such county has agreed therein to pay from the revenues of such unified system the principal of and interest on all bonds issued for water or sewer purposes, or both, as the case may be, by such sanitary district or districts, and to impose such schedule of rates, rentals, fees and charges for the use and services of such unified system so as to produce revenues sufficient for such payment, such county may also apply the

revenues derived from such rates, rentals, fees and charges to the payment of the cost of operation and maintenance of the unified system, to the cost of renewals and replacements and to any other lawful purposes connected with or pertaining to such unified system, including the making of additions to and expansions of such unified system, to the payment of the principal of and interest on any bonds issued by such county for the purpose of such unified system and to the creation and maintenance of such reserves as may be deemed necessary by such county to effect any financing for such unified system. The order of any priority of the application of such revenues to any of the foregoing purposes, including to the payment of the principal of and interest on such bonds of the sanitary districts, may be determined by the board of supervisors as the governing body of the county. If at any time the revenues derived from rates, rentals, fees and charges for the use and services of such unified system, are insufficient to provide for the operation and maintenance of the unified system, and for payment of principal of and interest on such bonded indebtedness of the sanitary district as the same shall become due, such sanitary district shall levy an annual tax upon all property in such sanitary district subject to local taxation to pay such principal and interest as the same shall become due. Nothing contained in the immediately preceding sentence shall, however, be construed to relieve the county of its obligations under any such agreement to impose rates, rentals, fees and charges for the use and services of such system sufficient to pay such costs of operation and maintenance and to provide for the payment of such principal and interest.

1972, c. 221.

§ 21-118.7. Same; payment to county of revenues held by district.

Any agreement for the creation of a unified system may provide for the payment over to the county of net revenues held by the district or districts theretofore derived from the water supply or sewerage systems, or both, of the district or districts that are to become part of such unified system.

1972, c. 221.

§ 21-118.8. Same; ratification of prior agreements.

Any agreement heretofore entered by a county with one or more sanitary districts with respect to a unified system containing provisions substantially in compliance with §§ [21-118.5](#), [21-118.6](#) or [21-118.7](#), and the proceedings heretofore taken with respect to such agreement, are hereby ratified, validated, confirmed and approved, notwithstanding that any provisions of said agreement may have been inconsistent with the provisions of this chapter prior to the enactment of §§ [21-118.5](#) to [21-118.8](#).

1972, c. 221.

§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing bodies, etc., not affected.

A. Each sanitary district created or purported to be created by the governing body of a county, heretofore or hereafter made and adopted pursuant to any general law of the Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or

hereafter made by or for any such district are hereby determined to be general tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges, magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B, the board of supervisors of Buckingham County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in [§ 21-118.4](#).

1936, p. 497; Michie Suppl. 1946, § 1560s3; 1997, c. [261](#); 2005, c. [839](#); 2007, c. [813](#); 2017, c. [14](#).

§ 21-119.1. Transfer of certain sanitary districts to towns.

(1) The governing body of any county in which a sanitary district has been established and subsequent thereto a town has been created, the boundaries of such town being the same as those of the sanitary district, is authorized to transfer all jurisdiction and control over such district to such town.

(2) Such transfer shall be subject to approval by the bondholders.

(3) Upon the transfer of such district to the town all power and authority of the county over the affairs of such district shall terminate and all such power and authority shall be transferred to and vest in the governing body of the town and all obligations and indebtedness of such district shall be and become an obligation of the town. Such transfer shall not be made, unless, in addition to the other conditions herein set forth, the governing body of such town assents thereto.

1952, c. 626.

§ 21-120. In certain cities and counties.

Chapter 161 of the Acts of 1926, as amended, codified as §§ 1560a-1560l2 of Michie Code 1942 and Michie Suppl. 1946, and last amended by chapter 465 of the Acts of 1948, providing for sanitary districts in counties having more than 500 inhabitants per square mile or adjoining a county having more than 1,000 inhabitants per square mile or adjoining a city having a population of 170,000 or more, is continued in effect. Chapter 189 of the Acts of 1932, codified as §§ 1560t-1560z of Michie Code 1942, providing for sanitary districts in counties having a population of between 35,000 and 37,000 according to the census of 1930, is continued in effect. Chapter 232 of the Acts of 1944, codified as § 1560l3 of Michie Suppl. 1946, relating to levy of sanitary district tax in lieu of issuance of bonds in counties having an area of more than forty-five and less than sixty square miles, is continued in effect. Chapter

305 of the Acts of 1944, as amended by Chapter 372 of the Acts of 1946, and Chapter 70 of the Acts of 1948, relating to levy of assessments in sanitary districts in counties adjoining a county having more than 1,000 inhabitants per square mile, is continued in effect.

The following amendments and repeal of Acts of Assembly continued in effect by this section are incorporated in this Code by this reference:

Amendments to Chapter 161, as amended, of the Acts of 1926.

Chapter 198 of the Acts of 1950.

Chapter 442 of the Acts of 1950.

Chapter 300 of the Acts of 1952.

Chapter 324 of the Acts of 1954.

Chapter 691 of the Acts of 1956.

Chapter 454 of the Acts of 1958.

Chapter 521 of the Acts of 1958.

Chapter 561 of the Acts of 1960.

Chapter 554 of the Acts of 1962.

Chapter 344 of the Acts of 1964.

Chapter 678 of the Acts of 1968.

Chapter 253 of the Acts of 1970.

Chapter 597 of the Acts of 1970.

Chapter 219 of the Acts of 1972.

Chapter 222 of the Acts of 1972.

Chapter 303 of the Acts of 1977.

Chapter 294 of the Acts of 1981.

Chapter 732 of the Acts of 1984.

Chapter 51 of the Acts of 1989.

Chapter 394 of the Acts of 1989.

Chapter 1025 of the Acts of 1999.

Repeal of Chapter 189 of the Acts of 1932.

Chapter 139 of the Acts of 1956.

§ 21-121. Validation of proceedings.

All proceedings had in the creation of sanitary districts in the Commonwealth prior to January 1, 1970, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created under existing law or by special act are declared to have been validly created and established notwithstanding any defects or irregularities in the creation thereof.

1946, p. 64; 1958, c. 588; 1968, c. 62; 1970, c. 441.

§ 21-121.1. Further validation of proceedings.

All proceedings had in the creation of sanitary districts in the Commonwealth prior to June 30, 1954, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created, under existing general law or by special act, are declared to be validly created and established, notwithstanding any defects or irregularities in the creation thereof, including any curable unconstitutionality of a procedural character, such as failure of the act to correspond with title and such constitutional questions.

1950, p. 4; 1954, c. 68.

§ 21-121.2. Additional validation of proceedings.

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

1960, c. 562; 1962, c. 26; 1964, c. 243.

§ 21-121.2:1. Same; bond issues.

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

All proceedings heretofore taken and all elections heretofore held in sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, to provide for, and with respect to, the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of all such sanitary districts, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of the governing body of the county in which any such district is located to authorize and issue such bonds, or to authorize the execution, sale or delivery thereof, and notwithstanding any defects or irregularities in any such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be binding, legal, valid and enforceable obligations of any such sanitary districts, notwithstanding any statutory limitation on the amount thereof.

It is the intention of the General Assembly that this section shall be liberally construed to effectuate the purposes set out therein.

1966, c. 199.

§ 21-121.3. Powers of districts created under other laws.

Any sanitary district heretofore created under general law or special act shall have all of the powers specified in this article notwithstanding any limitations contained in any general law or special act pursuant to which such sanitary district was created and notwithstanding any limitations contained in the proceedings taken for the creation thereof.

1964, c. 165.

§ 21-121.4. Powers of boards of supervisors and other governing bodies of counties with respect to sanitary districts.

Notwithstanding anything in this article to the contrary, the board of supervisors or other governing body of a county and the requisite number of qualified voters may, with respect to any and all sanitary districts of whatsoever kind, whether heretofore or hereafter created pursuant to this article or pursuant to any other general or special act, exercise all of the powers granted them by §§ [21-116](#), [21-117](#), [21-117.1](#), [21-118](#), [21-118.1](#) and [21-118.4](#).

1968, c. 275.

§ 21-121.5. Validation of certain actions.

All proceedings had in the creation, enlargement or merger of sanitary districts in the Commonwealth prior to January 1, 1977, whether under general law or by special act, are validated and confirmed, and all such districts so created, enlarged or merged or attempted to be created, enlarged or merged under existing law or by special act are declared to have been validly created, established, enlarged or merged notwithstanding any defects or irregularities in the creation, enlargement or merger thereof.

1977, c. 183.

§ 21-121.6. Sanitary districts in certain counties with a water and sewer authority.

A. This section shall apply to any sanitary district created after January 1, 1993, in a county with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ [15.2-5100](#) et seq.).

B. The circuit court shall not enter an order pursuant to § [21-123](#) requiring an election until a resolution of the governing body requesting the entry of such order has been filed with the circuit court.

C. Notwithstanding the provisions of §§ [21-125](#) and [21-128](#), if an election conducted pursuant to § [21-124](#) indicates that a majority of the qualified voters of the sanitary district voting on the question are in favor of issuing bonds for a purpose for which the sanitary district was created, no bonds of the sanitary district shall be issued, and the circuit court shall not require the issuance of such bonds, without the approval of the governing body of the county.

D. If a sanitary district levies a tax upon property within the sanitary district pursuant to subdivision 6 of § [21-118](#), such tax shall be based on the full assessed value of the taxable property within the sanitary

district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ [58.1-3229](#) et seq.) of Chapter 32 of Title 58.1. In addition to the notice required pursuant to § [21-114](#), the petitioners shall provide a written notice of the court hearing to each owner of property within the proposed district which is currently assessed at its use value pursuant to Article 4 (§ [58.1-3229](#) et seq.) of Chapter 32 of Title 58.1. Such notice shall be mailed, first class, at least twenty-one days prior to the hearing to each such owner as listed in the current real estate assessment records, and an affidavit shall be filed with the court evidencing that such notice has been mailed.

E. The county's claim of taxes and its lien on property pursuant to Article 11 (§ [58.1-3340](#) et seq.) of Chapter 32 of Title 58.1 shall have priority over any claim or lien for any tax levied pursuant to subdivision 6 of § [21-118](#).

F. The governing body of a sanitary district may enter into agreements with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ [15.2-5100](#) et seq.) for the construction, operation, use, control, ownership, and maintenance of any water supply, sewerage or other systems or facilities located within or outside of the boundaries of the sanitary district. Such agreements may provide that the authority will provide any service which the authority is permitted to provide and which the sanitary district may provide through the construction, establishment, maintenance, and operation of its own system or systems. The governing body of the county shall have the power to issue bonds of the sanitary district for the construction, establishment, and maintenance of any systems providing such service, whether such systems are owned by the sanitary district or the authority. The sanitary district and the authority may also agree on the imposition, collection, and use of rates, fees, and charges relating to such systems, including reimbursements by or to persons utilizing such systems. Notwithstanding the provisions of subdivision 2 of § [21-118](#), the sanitary district may sell, lease as lessor, transfer or dispose of any of its property, real, personal or mixed, to the authority without holding a public hearing.

1993, c. 272.

Article 2 - BONDS OF SANITARY DISTRICTS

§ 21-122. Authority to issue bonds; limitation of amount.

The governing body of any county in which a sanitary district has been or may hereafter be created by general or special law shall have power, subject to the conditions and limitations of this article, to issue bonds of such sanitary district to an amount in the aggregate of not exceeding eighteen per centum of the assessed value of all real estate in the district subject to local taxation, for the purpose of raising the necessary funds to carry into effect any or all of the purposes specified in Article 1 (§ [21-112.22](#) et seq.) of Chapter 2 of Title 21, provided, however, that such limitation of eighteen per centum shall not apply if the petition required by § [21-123](#) states the maximum amount of bonds to be issued, and if such bonds are to be issued for a specific undertaking from which the sanitary district may derive revenue, but from and after a period to be determined by the governing body of the county, not

exceeding five years from the date of the election authorized in § [21-123](#), whenever and for so long as such undertaking fails to produce sufficient revenue to pay the cost of operation and administration (including interest on bonds issued therefor), and the cost of insurance against loss by injury to persons or property, and an annual amount to be covered into a sinking fund sufficient to pay, at or before maturity, all bonds issued on account of such undertaking, all such bonds outstanding shall be included in determining such limitation.

1946, p. 180; Michie Suppl. 1946, § 1560z1; 1964, c. 165.

§ 21-122.1. Bonds for special purpose; no election required.

The governing body of any county in which a sanitary district has been or may be created by general or special law shall have the power to issue bonds to satisfy improvements to water or sewerage systems mandated by the State Water Control Board, pursuant to the Federal Water Pollution Control Act, as amended (P.L. 92-500).

The principal and interest on bonds issued under this section shall be paid by the governing body exclusively from revenues and receipts from the water or sewerage system which is to be improved.

For the purposes of this section, the term "mandated" shall also mean any agreement between a governing body and the State Water Control Board to come into compliance with the requirements of the State Water Control Law.

Issuance of such bonds shall be subject to the conditions or limitations of this article; however, no bond referendum shall be required for bonds to be issued pursuant to this section. The sections of this article pertaining to election requirements and procedures shall not be applicable where bonds are to be issued for the purposes set forth herein. In addition, the provisions of §§ [21-137.2](#) and [21-138](#), authorizing an annual tax to be levied upon all the property in the district in order to pay the principal and interest due on the bonds, shall not be applicable to bonds issued under this section.

All bonds issued under the provisions of this section shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town or other subdivision of the Commonwealth are pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this section shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or other subdivision of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this section.

1986, c. 340.

§ 21-123. Order requiring election.

The circuit court of such county, upon the petition of a majority of the members of the governing body of the county, or upon the petition of fifty qualified voters residing in such sanitary district, shall make an order in accordance with § [24.2-684](#) requiring the officers of election to open a poll and take the sense of the qualified voters of the district on the question whether the governing body shall issue bonds for one or more of the purposes for which the sanitary district was created.

1946, p. 181; Michie Suppl. 1946, § 1560z2; 1976, c. 11.

§ 21-124. Conduct of election; canvass of returns, etc.

The election shall be conducted in the manner prescribed by law for the conduct of regular elections, and the ballots shall be printed and voted, and the returns made and canvassed and the results certified, in accordance with the provisions of § [24.2-684](#).

1946, p. 181; Michie Suppl. 1946, § 1560z3.

§ 21-125. Procedure after election.

If it shall appear from the report of the commissioners of election that a majority of the qualified voters of the sanitary district voting on the question are in favor of issuing the bonds, the circuit court, or the judge thereof in vacation, shall enter of record an order requiring the governing body to proceed at its next meeting to carry out the wishes of the voters as expressed at the election.

1946, p. 181; Michie Suppl. 1946, § 1560z4.

§ 21-126. Inquiry into election and returns.

Whenever the sense of the qualified voters of the district shall be taken on the question whether the governing body shall issue bonds for one or more of the purposes for which the sanitary district was created, election and returns shall be subject to the inquiry, determination and judgment of the circuit court of the county upon the written complaint of twenty-five or more of the qualified voters of the district, of an undue election or false returns, two of whom shall take an oath that the facts set forth in such complaint are true to the best of their knowledge and belief, and the court shall, in judging of such election and returns, proceed upon the merits thereof and determine concerning the same according to the Constitution and laws of this Commonwealth, but such complaint shall not be valid unless it shall have been filed within thirty days after the election in the office of the clerk of the court. The governing body of the county shall be made a defendant by summons or notice to its chairman of the filing of the complaint, and after such service of notice on the chairman of such governing body, either party, upon reasonable notice to the other, shall be at liberty to take depositions to sustain or invalidate such election. Service of notice on any three of the complainants shall be sufficient. The court shall proceed at its next term after such service of summons or notice to determine the contest without a jury on the evidence, oral or written, unless good cause be shown for a continuance, and shall make a proper record of its judgment. If the judgment be that the election was a valid one in favor of the issuance of bonds in the district, the court shall make an order in conformity with § [21-125](#).

1946, p. 181; Michie Suppl. 1946, § 1560z5.

§ 21-127. Amount of bonds.

The governing body at its next meeting or as soon thereafter as practicable, shall determine what amount of bonds shall be issued for the purposes defined in the order calling the election.

The maximum amount of bonds issued shall in no case exceed the limitations prescribed in § [21-122](#), and in the event such governing body does not at such meeting direct the present issuing of all bonds,

it may thereafter, from time to time, direct the residue thereof to be issued to carry out the wishes of the voters, so far as necessary, as expressed in such election.

1946, p. 181; Michie Suppl. 1946, § 1560z6.

§ 21-127.1. Borrowing in anticipation of bond issue.

(a) In anticipation of the issuance of bonds under the provisions of this chapter and of the receipt of the proceeds of sale of such bonds, the governing body may on behalf of the sanitary district borrow money for the purpose for which such bonds have been authorized and within the maximum authorized amount of the bond issue. Each such loan shall mature and be paid within two years from the date of its original issue; provided, that on or after such maturity, any loan now outstanding or hereafter made may be extended from time to time, provided, further, that no such extension shall mature and be paid later than five years from the date of the original issue of said loan. The governing body may, in its discretion, retire any such loans by means of current revenues, special assessments, or other funds, in lieu of retiring them by means of bonds; provided that the maximum amount of bonds that has been authorized shall be reduced by the amount of such loans retired in such manner.

(b) Negotiable notes or other obligations shall be issued for all moneys borrowed under subsection (a). Such notes or other obligations may be renewed from time to time and money may be borrowed upon notes or other obligations from time to time for the payment of any indebtedness evidenced thereby, but all such notes or other obligations shall mature within the time limited by said subsection (a). The issuance of such notes or other obligations and other details thereof shall be governed by the provisions of this chapter with respect to bonds insofar as the same may be applicable.

(c) All such notes or other obligations heretofore issued on behalf of a sanitary district and proceedings had in connection therewith which conform to this section are hereby ratified, validated and confirmed and declared to be legal and as fully binding obligations as if issued under this section.

1966, c. 189; 1970, c. 124.

§ 21-128. Failure or refusal to issue bonds.

In event the governing body, for any reason, fails or refuses to issue the bonds so authorized to be issued, the circuit court of the county may, upon the complaint of ten qualified voters of the district, and after ten days' notice to the chairman of the governing body, for cause shown, issue an order directing it to issue such bonds or any unissued residue thereof, or such portion thereof as the court may, from time to time, deem proper to be issued in order to carry out the wishes of the voters as expressed in the election.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-129. Agents for sale of bonds.

The governing body shall have power to appoint an agent or agents to sell the bonds and to pay such agent or agents a commission for negotiating the sale not exceeding three per centum of the amount of bonds sold by them, provided the bonds shall be sold to be paid for in lawful money only, and shall

not be sold at less than their par value. When such a sale has been negotiated, the governing body shall issue the bonds.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-130. Form of bonds.

Such bonds may be either registered or with coupons attached, as the governing body may prescribe, and coupon bonds may be registerable as to principal, or as to principal and interest, at the option of the holder, under such rules and regulations as may be prescribed by the governing body. The bonds shall be signed by the chairman and countersigned by the clerk of the governing body under its seal; shall be in denominations of \$100 or some multiple thereof; shall bear interest at a rate not exceeding six percent per annum, payable semi-annually, both principal and interest to be payable at such place or places as may be determined by the governing body, and shall be payable not exceeding thirty-four years from the date thereof, but may, in the discretion of the governing body, be made redeemable at such time or times within such period or periods and upon such notice as the governing body may prescribe and stipulate upon the face of the bond when issued.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-130.1. Bonds mutilated, lost or destroyed.

Should any bond issued under this chapter become mutilated or be lost or destroyed, the governing body of the county may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon cancellation of, such mutilated bond and its interest coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured interest coupons. Such new bond shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expense and charges in connection therewith and (2) in the case of a lost or destroyed bond has filed with the governing body and the county treasurer evidence satisfactory to such governing body and treasurer that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the county treasurer.

1962, c. 208.

§ 21-131. Delivery to treasurer.

The governing body shall deliver the bonds to the treasurer of the county, who shall deliver them to the purchasers thereof, or to their order, upon the payment of the purchase price thereof.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-132. Liability of treasurer.

The treasurer and his sureties shall be liable for the amount received for such bonds as though it were a county levy, and such funds shall be expended for the purposes for which the bonds were voted and none other.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-133. Cost of giving surety on additional bond or bonds required.

The treasurer shall receive the reasonable cost of giving surety on such additional bond or bonds as may be required of him, if any, on account of his receipts heretofore or hereafter of such funds.

1946, p. 182; Michie Suppl. 1946, § 1560z6; 1952, c. 283.

§ 21-134. Deposit of proceeds.

The governing body may direct the treasurer to deposit the proceeds of the bond issue in such bank or banks as it may approve, to the credit of such treasurer, to be paid out on his checks therefor, and at the rate of interest to be specified, and all interest accrued therefrom shall be accounted for by the treasurer, and shall be expended for the purposes for which the bonds were issued, and insofar as not necessary therefor, shall be paid into the sinking fund to redeem the principal thereof at maturity.

1946, p. 182; Michie Suppl. 1946, § 1560z6.

§ 21-134.01. Allocation of county funds to sanitary districts.

The governing body of any county may advance funds, not otherwise specifically allocated or obligated, from the general fund to a sanitary district to assist the sanitary district to initiate the project for which it was created.

1964, c. 242, § 15.1-26.1; 1997, c. 587.

§ 21-134.1. Reimbursement of county for advances to sanitary district.

Notwithstanding the provisions of § [21-132](#), the governing body shall direct the treasurer to reimburse the general fund of the county from the proceeds of the bond issue or from any funds to the credit of the sanitary district, not otherwise specifically allocated or obligated to the extent that the county has made advances to the sanitary district from such general fund to assist the district to initiate or effectuate the project for which it was created.

1954, c. 321; 1962, c. 335.

§ 21-134.2. Validation of advances to sanitary district.

The advancement of any funds heretofore advanced from the general fund by the board of supervisors of any county in this Commonwealth for the benefit of a sanitary district in effectuating a project lawful for such sanitary district is hereby validated and confirmed.

1954, c. 321.

§ 21-135. Insolvency of depository.

The treasurer shall not be liable for any deposits which shall be lost by reason of the insolvency or failure of any bank in which he shall have been directed by the governing body to deposit them.

1946, p. 183; Michie Suppl. 1946, § 1560z6.

§ 21-136. Bond of depository.

A bond with surety may be required by such governing body from any bank in which such deposits are made.

1946, p. 183; Michie Suppl. 1946, § 1560z6.

§ 21-137. Repealed.

Repealed by Acts 1972, c. 236.

§ 21-137.1. Payment of interest on and maintenance of sinking fund for term bonds; tax levy; what constitutes "term bonds" and "serial bonds."

When term bonds have been issued the net revenue derived from the operation of such systems shall be set apart by the said board to pay the interest on the bonds so issued or to be issued, and to create a sinking fund to redeem the principal thereof at maturity. The board of supervisors is hereby authorized and empowered to apply any part or all of said sinking fund to the payment, if redeemable by their terms, or to the purchase of any such bonds, at any time, and all bonds so paid off or purchased by the board of supervisors shall be immediately cancelled, and shall not be reissued. The board of supervisors is authorized and empowered to invest all accumulations of money to the credit of the sinking fund in bonds of the United States, of the Commonwealth of Virginia, or of any county, city or town of the Commonwealth of Virginia, or to lend out, upon real estate security, the loan not to exceed fifty per centum of the assessed value of such real estate, or deposit in bank at interest, all accumulations of money to the credit of the sinking fund and to collect and reinvest the same and the interest accruing thereon from time to time, so often as is necessary or expedient, until the bonds become subject to call; provided that no money to the credit of the sinking fund shall be loaned out or deposited or invested by the board of supervisors unless such loan, deposit or investment is first approved by the circuit court of the county, or the judge in vacation, and the form of the security be examined and approved by the attorney for the Commonwealth of the county, which approval shall be entered of record in the order book of the court.

The treasurer shall not be liable for any funds herein provided for that are lost while on deposit made by order of the board of supervisors with any bank or banks, or when invested in any real estate security as provided herein, but the board of supervisors may require of any such bank a bond, with corporate or other surety, to secure such deposit, or may require a pledge of securities to secure such deposits as provided in §§ [58.1-3158](#) and [2.2-4400](#).

The board of supervisors shall, if necessary for the payment of interest on the bonds or to increase the sinking fund provided for hereunder, levy an annual tax upon all property in such sanitary district subject to local taxation to pay such interest and to make payments into such sinking fund. For the purposes of this section and § [21-137.2](#), the words "serial bonds" and "term bonds" shall have the respective meanings customarily given them in the municipal bond market. A finding made by the board of supervisors that an issue of bonds comprises term bonds or serial bonds, or that specified portions thereof comprise term bonds or serial bonds, as the case may be, shall be conclusive for all purposes of this section and § [21-137.2](#).

1972, c. 236.

§ 21-137.2. Payment of interest on serial bonds; no sinking fund required; tax levy; use of excess revenues.

When serial bonds have been issued, the net revenue derived from the operation of such systems shall be applied to pay the interest on and the principal of such serial bonds as the same become due, but no sinking fund shall be required in respect of serial bonds.

The board shall, if necessary, levy an annual tax upon all property in such sanitary district, subject to local taxation, to pay such principal and interest as shall annually become due for payment. In the event net revenue exceeds the annual principal and interest due thereon, the board may use such net revenue for extensions and additions to the system, purchase and retirement of outstanding bonds of the district, or for any other lawful purpose consistent therewith.

1972, c. 236.

§ 21-138. Same; levy of tax.

The governing body shall, if necessary for the payment of the interest on the bonds or to increase the sinking fund provided for hereunder, levy an annual tax upon all the property in the district subject to local taxation to pay such interest and to make payments into the sinking fund.

1946, p. 183; Michie Suppl. 1946, § 1560z7.

§ 21-139. Laws continued in effect.

Sections 4 through 7 of Chapter 460 of the Acts of 1930, as amended by Chapter 15 of the Acts of 1933; Chapter 274 of the Acts of 1936; Chapter 28 of the Acts of 1936-7, codified as §§ 1560p-1560s of Michie Code 1942, relating to bonds of sanitary districts, is continued in effect.

Chapter 186 of the Acts of 1932, as amended by Chapter 164 of the Acts of 1938, codified as §§ 1560aa through 1560gg of Michie Code 1942, relating to bonds of sanitary districts created by special act, is continued in effect.

Chapter 25 of the Acts of 1947, as amended by Chapter 72 of the Acts of 1948, relating to the issuance of bonds by sanitary districts in counties adjoining a county having a population of not less than 1,000 a square mile, is continued in effect.

§ 21-140. Validation of proceedings.

All proceedings had and all elections held in any sanitary district of the Commonwealth prior to January 1, 1946, to provide for and with respect to the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of such district are validated and confirmed, notwithstanding any lack of power of the governing body of the county in which such district is located to authorize and issue such bonds, or to execute, sell or deliver the same, and notwithstanding any defects or irregularities in such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be valid and enforceable obligations of such sanitary district.

1946, p. 64.

§ 21-140.1. Further validation of proceedings.

All proceedings had and all elections held in any sanitary district of the Commonwealth prior to June 30, 1954, whether under general law or by special act, to provide for and in respect to the contracting of bonded indebtedness and the authorization, issuance, sale, execution, and delivery of bonds by or on behalf of such district prior to June 30, 1954, whether under general law or by special act, are ratified and confirmed, notwithstanding the lack of power of the governing body of the county in which such district is located to authorize and issue such bonds or to execute, sell or deliver the same, and notwithstanding any defects or irregularities in such proceedings or elections concerning such execution, sale, or delivery, and notwithstanding any curable unconstitutionality of a procedural character, such as failure of the act to conform to the title and such other constitutional questions; and such bonds so issued or to be issued are and shall be binding, legal, valid, and enforceable obligations of such sanitary district.

1950, p. 4; 1954, c. 68.

§ 21-140.2. Additional validation of proceedings.

All proceedings heretofore taken and all elections heretofore held in sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, to provide for, and with respect to, the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of all such sanitary districts, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of the governing body of the county in which any such district is located to authorize and issue such bonds, or to authorize the execution, sale or delivery thereof, and notwithstanding any defects or irregularities in any such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be binding, legal, valid and enforceable obligations of any such sanitary districts, notwithstanding any statutory limitation on the amount thereof.

1960, c. 562; 1962, c. 26; 1964, c. 243; 1968, c. 62; 1970, c. 441.

§ 21-140.3. Validation of certain bonds.

All bonds heretofore issued by any sanitary district for any or all of the purposes specified in Article 1 (§ [21-112.22](#) et seq.) of Chapter 2 of Title 21 are hereby declared to be valid and legally binding obligations of such sanitary district, notwithstanding any limitations contained in any general law or special act pursuant to which such sanitary district was created and notwithstanding any limitations contained in the proceedings taken for the creation thereof.

1964, c. 165.

Chapter 3 - Sanitation Districts Law of 1938 – Tidal Waters

Article 1 - General Provisions

§ 21-141. Short title.

This chapter may be known, designated and cited as the "Sanitation Districts Law of Nineteen Hundred and Thirty-Eight."

1938, p. 510; Michie Code 1942, § 1560hh.

§ 21-142. Definitions.

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

- (1) The term "district" means a sanitation district created and existing pursuant to §§ [21-145](#) to [21-153](#) or heretofore or hereafter created by a special act of the General Assembly for the purpose of taking advantage of the provisions of this chapter;
- (2) The term "commission," except where the context requires reference to the board or commission mentioned and provided for in § [21-157](#), means the body corporate and politic comprising a district and its inhabitants created and existing pursuant to § [21-154](#);
- (3) The term "chairman" means the chairman of a commission;
- (4) The term "sewage disposal system" or "facilities," used in relation to a commission, means the sewers, conduits, pipelines pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property operated by the commission for the purposes of the commission;
- (5) The term "tidal waters of the district" means the waters within the district affected by the ebb and flow of the tide and also, in the event that the commission shall, pursuant to § [21-216](#), enter into any contract or agreement with any county, city or town in whole or in part outside of the district, and for so long as such contract or agreement shall remain in force, the waters within such county, city or town, which are affected by the ebb and flow of the tide, and the waters within one mile of such county, city or town which are affected by the ebb and flow of the tide are not included within the boundaries of any other county, city or town, or within the boundaries of any other sanitation district;
- (6) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource;
- (7) 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 building, together with such surface or ground water and industrial wastes as may be present;
- (8) The term "pollution" means the condition of water resulting from any of the following acts:
 - (a) Unreasonably contaminating such water;
 - (b) Rendering such water unclean or impure;
 - (c) Rendering such water directly or indirectly injurious to public health, or unfit for public use;
 - (d) Rendering such water harmful for cattle, stock or other animals;

- (e) Rendering such water deleterious to, or unfit for, fish or shellfish, or fish or shellfish propagation, or aquatic animals, or plant life in said water;
- (f) Rendering such water unfit for commercial use;
- (g) Rendering such water unclean or impure to such an extent that fish or shellfish taken therefrom are unfit for human consumption;
- (9) The term "Governor" means the Governor of the Commonwealth of Virginia;
- (10) The term "construct" includes construct, reconstruct, replace, improve and repair;
- (11) The term "person" includes an individual, partnership, association, or corporation;
- (12) The term "governing body" shall mean the board of supervisors, board of county commissioners, council or other local legislative body, board, commission, or other legislative authority having charge of the finances of any county, city or town;
- (13) The term "town" means an incorporated town;
- (14) The term "county" means a county exclusive of that portion thereof lying within the boundaries of an incorporated town.

1938, p. 510; 1942, p. 598; Michie Code 1942, § 1560ii.

§ 21-143. Ordering and conduct of elections.

Every order made pursuant to this chapter requiring the opening of a poll and the taking of the sense of the qualified voters of a district or proposed sanitation district on a question, shall designate the question and a date for holding such election not less than thirty days from the date of such order, and may be directed as writs of election are directed for an election district, or to fill a vacancy in the General Assembly or in Congress. It shall be the duty of the regular election officers of the counties and cities in whole or in part embraced within the district or proposed sanitation district to cause to be printed and distributed in the manner prescribed by law for printing and distributing other ballots the proper number of ballots which shall be separate from any other ballots. The ballots shall set forth the question designated in such order and shall be in substantially the following form:

(Here shall appear the question designated in the order)

☐ YES

☐ NO

To vote "Yes" on the question, place a checkmark (✓) or cross (+ or X) in the space opposite the word "Yes"; to vote "No" on the question, place a checkmark (✓) or cross (+ or X) in the space opposite the word "No."

The regular election officers, at the time designated in such order, shall open the polls at the various voting places in the district or proposed sanitation district and at any other voting places at which any qualified voter of the district or proposed sanitation district is entitled to vote, and shall conduct such

election and close the polls in such manner as is provided by law in other elections. The ballots shall be counted, and returns made and canvassed and the results ascertained and made known as in other elections, and the results certified by the commissioners of election to the Secretary of the Commonwealth, all in such manner as to show the respective numbers of affirmative and negative votes cast at the election. The Secretary of the Commonwealth shall record and tabulate the reports of the commissioners of election and shall certify the result of the election to the court which made the order authorizing and requiring such election.

1938, p. 528; Michie Code 1942, § 1560fff.

§ 21-144. Court proceedings.

Whenever in this chapter the circuit court of any county, or the corporation court of any city, is authorized to accept any petitions or papers, make any order, hold any hearing, hear, consider and determine any question or do any other act or thing, such court, or a judge thereof in vacation, may do and perform the same.

1938, p. 529; Michie Code 1942, § 1560ggg.

Article 2 - CREATION OF DISTRICTS

§ 21-145. Territory which may be embraced in district.

Any integral body of territory within which are situated waters affected by the ebb and flow of the tide and none of which is embraced within any other sanitation district may, under the conditions and upon the taking and completion of the proceedings provided in this article, be created a sanitation district. Every part of the boundary of such a sanitation district shall either (1) coincide with the boundary of a county, city or town or (2) bisect a county, city or town, or (3) be located within one mile of the boundary of a county, city or town, or (4) consist of a straight line connecting two points each of which lies upon a boundary of one of the three types hereinabove described.

1938, p. 511; Michie Code 1942, § 1560jj.

§ 21-146. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks beginning at least twenty-eight days prior to the day of such hearing in some newspaper or newspapers, named in such order, having general circulation in the proposed sanitation district. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question

the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

1938, p. 511; Michie Code 1942, § 1560jj.

§ 21-147. Contents of petition.

Every such petition shall pray for the creation of the proposed sanitation district, shall set forth the name of the proposed sanitation district (which shall include the words "sanitation district"), shall fix the boundaries thereof, shall name the cities and counties and towns which are in whole or in part to be embraced therein and shall contain an allegation (1) that the proposed sanitation district includes within its territorial limits waters affected by the ebb and flow of the tide which are polluted, (2) that no part of the proposed sanitation district is within the territorial limits of an existing sanitation district, (3) that the proposed sanitation district is an integral whole and does not completely surround any territory not included in the proposed or some existing sanitation district, (4) that the creation of the proposed sanitation district in accordance with this chapter will provide a means for abating or preventing the pollution of tidal waters of the proposed sanitation district and will benefit all the property within the proposed sanitation district, (5) that the creation of the proposed sanitation district has been approved by the State Health Commissioner as providing a practical means for abating or preventing the pollution of the tidal waters of the proposed sanitation district, and (6) that the petition has been approved and the prayer thereof joined in by each city, county and town which is in whole or in part embraced within the proposed sanitation district, expressed by resolution adopted by the vote of a majority of the governing body thereof.

1938, p. 512; Michie Code 1942, § 1560jj.

§ 21-148. Signatures on petition.

Every such petition shall be signed by not less than 200 qualified voters of the proposed sanitation district, including not less than 50 qualified voters of each city and county and town in whole or in part embraced within the proposed sanitation district.

1938, p. 512; Michie Code 1942, § 1560jj.

§ 21-149. Hearing and determination; ordering election.

Any person interested may answer the petition and make defense thereto, and at such hearing all persons interested or desiring to controvert the allegations of the petition or question the conformity thereof to this article or object to the creation of the proposed sanitation district shall be heard. If upon such hearing the court shall not be satisfied that the allegations of the petition are sustained and that the petition conforms to the provisions of this article, it shall make an order denying and dismissing the petition. If upon such hearing the court shall be satisfied that the allegations of the petition are sustained and that the petition conforms to the provisions of this article and that all of the property in the proposed sanitation district will be benefited by the creation of the proposed sanitation district and that the public interest will be served and the public health protected by such creation, it shall make an order determining such matters and requiring the opening of a poll and the taking of the sense of the

qualified voters of the proposed sanitation district in accordance with § [21-143](#) on the question of the creation of the proposed sanitation district. The question so submitted shall be "Do you favor the creation of the..... (inserting name of the proposed sanitation district stated in the said petition)?"

1938, p. 512; Michie Code 1942, § 1560jj.

§ 21-150. Order when election favors establishment.

If upon the certification of the result of such election made by the Secretary of the Commonwealth to such court, it shall appear that a majority of the qualified voters of the proposed sanitation district voting at the election shall have voted "yes" and in favor of the creation of the proposed sanitation district, the court shall make and enter of record an order stating such result, and thereupon the territory defined in the petition, less such parts thereof as shall be excluded pursuant to the provisions of § [21-151](#), shall be and constitute a sanitation district for all the purposes of this article, known and designated by the name stated in the petition.

1938, p. 513; Michie Code 1942, § 1560jj.

§ 21-151. Exclusion from district of county, city or town voting against establishment.

If upon the certification of the results of the election provided for in § [21-150](#) it shall appear that a majority of the qualified voters of any county or of any city or of any town voting on the question at the election, shall have voted "no" against the creation of the proposed sanitation district, then the territory included within the limits of such county or of such city, or of such town, shall be excluded from, and shall not constitute a part of the district.

1938, p. 513; Michie Code 1942, § 1560jj.

§ 21-152. Approval of State Health Commissioner.

The State Health Commissioner is authorized, upon being satisfied that the creation of a proposed sanitation district will provide a practical means for abating or preventing the pollution of the tidal waters of the proposed sanitation district, to approve, as above referred to, the creation of the proposed sanitation district.

1938, p. 513; Michie Code 1942, § 1560jj.

§ 21-153. Governing bodies may adopt resolutions.

The governing body of each city and county and town is authorized, in its discretion, to adopt resolutions, as above referred to, approving and joining in the prayer of petitions for the creation of a proposed sanitation district.

1938, p. 513; Michie Code 1942, § 1560jj.

Article 3 - INCORPORATION; COMMISSION

§ 21-154. Incorporation of district; name and style.

Each district heretofore or hereafter created pursuant to this chapter or pursuant to a special act of the General Assembly, and the inhabitants of its territory as the same has been or may be established and

from time to time altered pursuant to a law, is hereby created as a body corporate and politic under the name and style of, and to be known by, the name of the district with the word "commission" appended.

1938, p. 513; 1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 72; 1946, p. 528.

§ 21-155. Powers of commission.

Each commission, constituting a corporation is hereby invested with the rights, powers and authority and charged with the duties set forth in this chapter, and shall constitute a political subdivision of the Commonwealth established as a governmental instrumentality to provide for the public health and welfare.

1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 72; 1946, p. 528.

§ 21-156. Exemption of bonds from taxation.

The bonds of such district or commission, and the property owned or operated by such district or commission shall be exempt from all taxation, and the interest on the bonds shall take the same status under tax laws as the interest on bonds of other political subdivisions of the Commonwealth.

1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 72; 1946, p. 528.

§ 21-157. Creation of board or commission to control corporation.

In and for each district, a board or commission is hereby created to manage and control the functions, affairs and property of the corporation and to exercise all of the rights, powers and authority and perform all of the duties conferred or imposed upon the corporation. Except as a special act creating the district shall otherwise provide, such board or commission shall consist of five members, residents of the district, appointed by the Governor. Except as a special act creating the district shall otherwise provide, in making the original appointments, one of the members shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for terms of four years each; subsequent appointments shall be made for a term of four years, except appointments to fill vacancies which shall be for the unexpired terms.

1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 528.

§ 21-158. Officers of board or commission.

The board or commission shall elect from its members a chairman, whose term of office as such shall be one year, and who shall be eligible for reelection. Such commission under such rules as it may adopt, may elect one of its members vice-chairman, and may appoint a secretary, who need not be a member of the commission, and a treasurer or secretary-treasurer, who shall not be a member of the commission. In the event that the commission appoints a treasurer or secretary-treasurer, his compensation shall be fixed by the commission.

1938, p. 514; 1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 528.

§ 21-159. Compensation and expenses of commission members.

The members of the commission shall receive no salary, but shall be paid their necessary traveling and other expenses incurred in attendance upon meetings of the commission or while otherwise

engaged in the discharge of their duties under this chapter, and the sum of \$10 per diem for each day or portion thereof in which they are engaged in the performance of such duties, but the total of such per diem compensation so received by any member during any one year shall not exceed \$300.

1938, p. 514; 1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 528.

§ 21-160. Meetings of commission.

Regular meetings of the commission shall be held at least once every month at such time and place as the commission shall from time to time prescribe. Special meetings of the commission shall be held upon one day's mailed notice, or actual notice otherwise given, to each member of the commission upon call of the chairman or of any two members of the commission, at such time and at such place within the district as such notice may specify, or at such other time and place with or without notice as all of the members of the commission may expressly approve.

1938, p. 514; 1942, p. 600; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 529.

§ 21-161. Quorum.

Three members of the commission shall constitute a quorum, and the vote of three members of the commission shall be necessary to take any action.

1938, p. 514; 1942, p. 601; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 529.

§ 21-162. Suspension or removal of members of commission.

Members of the commission may be suspended or removed by the Governor at his pleasure.

1938, p. 514; 1942, p. 601; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 529.

§ 21-163. Oath and bond of members of commission.

Each member of the commission shall, before entering upon the discharge of his duties under this chapter, take and subscribe the oath of office required by Article II, Section 7 of the Constitution of Virginia and shall be bonded in accordance with § [2.2-1840](#), conditioned upon the faithful discharge of his duties.

1938, p. 514; 1942, p. 601; Michie Code 1942, § 1560kk; 1944, p. 73; 1946, p. 529; 2021, Sp. Sess. I, c. [152](#).

§ 21-164. Repealed.

Repealed by Acts 1970, c. 463.

§ 21-165. Manner of letting contracts.

All contracts, except in cases of emergency, over \$5,000 that the commission may let for construction or materials shall be let after public advertising. The commission shall advertise for bids for the work or materials at least ten days prior to the letting of any contracts therefor. The advertisement shall state the place where bidders may examine the plans and specifications and the time and place where bids for the work or materials will be opened. Each bidder shall accompany his bid with a certified check, payable to the commission, for a reasonable sum to be fixed by the commission, as a guarantee that if the contract is awarded to him, he will enter into a contract with the commission for doing the work or

furnishing the materials. The contract shall be let to the lowest responsible bidder, and the successful bidder shall give bond or other security for the faithful performance of the contract, in such form and amount as the chairman may require. The commission is authorized to reject any and all bids. In the event that all bids are rejected, the commission shall advertise for new bids as in the first instance. All bids and contracts shall be public records. The commission is authorized, in its discretion, to do any and all such work by force account.

1938, p. 515; 1942, p. 601; Michie Code 1942, § 1560kk; 1944, p. 74; 1946, p. 529.

§ 21-166. How power of eminent domain exercised.

The powers of condemnation or eminent domain conferred on the commission by this chapter shall be exercised by the board or commission under the same conditions and provisions and in accordance with the same procedure as in the case of the exercise of similar powers by the governing bodies of counties and cities or towns so far as they can be applied to the same.

1938, p. 515; 1942, p. 601; Michie Code 1942, § 1560kk; 1944, p. 74; 1946, p. 530.

§ 21-167. County, city or town not liable for act of commission.

No pecuniary liability of any kind shall be imposed upon any county, city or town constituting any part of any district because of any act, agreement, contract, tort, malfeasance, misfeasance, or non-feasance, by or on the part of the commission of such district, or any member of such commission, or its agents, servants and employees, except as otherwise provided in this chapter with reference to contracts and agreements between the commission and any county, city or town.

1938, p. 515; 1942, p. 602; Michie Code 1942, § 1560kk; 1944, p. 74; 1946, p. 530.

§ 21-168. Enumeration of powers of commission.

Every commission shall have the following powers:

- (1) To adopt and have a common seal and to alter the same at pleasure;
- (2) To sue and be sued;
- (3) In the name of the commission and on its behalf, to acquire, hold and dispose of its fees, rents and charges and other revenues;
- (4) In the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, to acquire, hold, and dispose of other personal property for the purposes of the commission;
- (5) In the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, to acquire by purchase, gift, condemnation or otherwise, real property or rights or easements therein, necessary or convenient for the purposes of the commission, subject to mortgages, deeds of trust, or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the commission;

- (6) To borrow money for the purposes of the commission and to issue therefor its bonds, and to provide for and secure the payment of its bonds and the rights of the holders thereof, and to fund or refund its bonds by the issuance of bonds hereunder;
- (7) To accept gifts or grants or real or personal property, money, material, labor or supplies for the purposes of the commission and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants;
- (8) To enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the commission;
- (9) To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of its facilities and properties, and to amend the same;
- (10) To do and perform any acts and things authorized by this chapter under, through or by means of its own officers, agents and employees, or by contracts with any persons;
- (11) To execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the commission or to carry out the powers expressly given in this chapter; and
- (12) To sell, lease as lessor, transfer, or dispose of all or any part of its property and facilities in such a manner and upon such terms as the commission may determine to be in the best interest of the district.

1938, p. 515; Michie Code 1942, § 1560II; 1991, c. 549.

§ 21-169. Relief from pollution to be purpose of commission.

The purposes of every commission shall be the relief of the tidal waters of the district from pollution and the consequent improvement of conditions affecting the public health and the natural oyster beds, rocks and shoals.

1938, p. 516; Michie Code 1942, § 1560mm.

§ 21-170. Acquisition and use of pipes, sewers, plants, stations, etc.

Every commission is authorized and directed to acquire, in the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, by purchase, gift, condemnation or otherwise, and, notwithstanding the provisions of any charter, or ordinance or resolution of any county, city or town to the contrary, to construct, maintain, operate and use such trunk, intercepting and outlet sewers, conduits, pipelines, pumping and ventilating stations, treatment plants or works at such places, and such other plants, structures, boats and conveyances, as in the judgment of the commission will provide an effective and satisfactory method for promoting the purposes of the commission.

1938, p. 516; Michie Code 1942, § 1560mm.

§ 21-171. Collection from public sewage systems.

The commission is authorized and directed when in the judgment of the commission its sewage disposal system, or part thereof, will permit, to collect from any and all public sewage systems within the district all sewage and treat and dispose of the same in such manner as to promote the purposes of the commission.

1938, p. 517; Michie Code 1942, § 1560mm.

§ 21-172. Use of public sewer and disposal facilities.

In order to carry out and effectuate the purposes of the commission, every commission is authorized to enter upon and use and connect with any existing public drains, sewers, conduits, pipelines, pumping and ventilating stations and treatment plants or works or any other public property of a similar nature within the district, deemed proper by the commission in the exercise of the powers and performance of the duties set forth in this chapter, and, if deemed necessary by the commission, close off and seal outlets and outfalls therefrom. The commission shall not, however, take possession of any such treatment plant unless it acquires the same by purchase, condemnation or otherwise.

1938, p. 523; Michie Code 1942, § 1560ss.

§ 21-173. Use of public places.

In order to carry out and effectuate the purposes of the commission, every commission is authorized to construct and operate its trunk, intercepting and outlet sewers, conduits and pipelines, along, over, under and in any streets, alleys, highways and other public places within the district. In so constructing its facilities, it shall see that the public use of such streets, alleys, highways and other public places is not unnecessarily interrupted or interfered with and that such streets, alleys, highways and other public places are restored to their former usefulness and condition within a reasonable time; to this end the commission shall cooperate with the Commonwealth Transportation Board and the appropriate officers of the respective counties, cities and towns having an interest in such matters.

1938, p. 523; Michie Code 1942, § 1560tt.

§ 21-174. Special contracts for disposal of sewage and other wastes.

(a) Every commission is authorized to enter into contracts with the United States of America, or with any department, institution or agency thereof, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of sewage or industrial wastes of or originating in or on any reservation, property, institution, building, or structure within the district owned or under the control of the United States of America, or any department, institution or agency thereof, by means of the sewage disposal system or such other facilities as the commission may determine to provide for such purpose, or in such other manner as the contract may provide.

(b) Every commission is authorized to provide, construct, operate and maintain facilities for the treatment and disposal of industrial wastes originating in the district, and to enter into contracts with any person, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of any such industrial wastes.

(c) Every commission is authorized to enter into contracts with any person owning or operating any sewer system within the district or engaged in treatment or disposal of sewage or industrial wastes originating in the district, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of any sewage or industrial wastes collected in such sewer system or by such person.

1938, p. 524; Michie Code 1942, § 1560yy.

§ 21-175. Approval of disposal methods.

The method proposed to be used by a commission for treating and disposing of sewage and industrial wastes so as to prevent the pollution of the tidal waters of the district, and any substantial change in such method, shall, before being finally adopted or used by the commission, be approved by the State Health Commissioner as effective and satisfactory for the purpose intended.

1938, p. 523; Michie Code 1942, § 1560uu.

§ 21-176. Prohibition of sale or encumbrance of system.

Neither the commission nor any of the counties, cities or towns in whole or in part embraced within the district shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the sewage disposal system of a commission, except such part or parts thereof as may be no longer necessary for the purposes of the commission, whether the same shall originally have been acquired by such commission or by one of the counties, cities or towns. The provisions of this section shall be deemed to constitute a contract with the holders of the bonds of the commission. The sewage disposal system of a commission shall be exempt from any and all liability which may be incurred by, or imposed upon, the commission, or any county, city or town, which, in whole or in part, constitutes any part of any district.

However, a commission may sell, lease as lessor, transfer, or dispose of all or any of its property and facilities in such a manner and upon such terms as the commission may determine to be in the best interest of the district, on the condition that the commission meet and discharge all of the requirements of the bonds issued by the commission, together with all principal, interest, costs and expenses.

1938, p. 523; Michie Code 1942, § 1560vv; 1991, c. 549.

§ 21-177. Agents and employees of commission.

The commission is authorized, except as otherwise provided in [§ 21-158](#), to appoint all agents and employees of the commission, dismiss them, fix their salaries or remuneration, assign their positions and titles, define their respective powers and duties, and require them or any of them to give bond payable to the Commonwealth in such penalty as shall be fixed by the commission conditioned upon the faithful discharge of their duties. Any salary or remuneration payable to any agent or employee in excess of \$1,200 per annum shall first be approved by the Governor.

1938, p. 523; Michie Code 1942, § 1560rr; 1946, p. 530.

§ 21-178. Funds of commission.

(a) All moneys of a commission, whether derived from the sale of bonds or other obligations or from the collection of fees, rents and other charges charged by the commission or from any contract of the commission or from any other source shall be collected, received, held, secured and disbursed in accordance with any contract of the commission relating thereto. The following provisions of this section shall be applicable to any such moneys only if and to the extent that they are consistent with such contract or contracts of the commission.

(b) Such moneys shall not be required to be paid into the state treasury or into the treasury or to any officer of any county, city or town.

(c) All such moneys shall be deposited by the commission in a separate bank account or accounts, appropriately designated, in such banks or trust companies as may be designated by the commission.

(d) All deposits of such moneys shall be secured by bonds or other direct unlimited obligations of the United States or of the Commonwealth or of any county, city or town of the Commonwealth or of the commission of a market value at least equal at all times to the amount of such deposits, and all banks and trust companies are authorized to give such security for such deposits.

1938, p. 524; Michie Code 1942, § 1560ww.

§ 21-179. Accounts and records.

Every commission shall keep and preserve complete and accurate accounts and records of all moneys received and disbursed by it and of all of its business and operations and of all property and funds owned or managed by it or under its control, and shall prepare and transmit to the Governor and to the governing body of each city, county and town which is in whole or in part embraced within the district, annually and at such other times as the Governor shall require, complete and accurate reports as to the state and content of such accounts and records, together with such information with respect thereto as the Governor may require.

1938, p. 524; 1940, p. 624; Michie Code 1942, § 1560xx.

Article 4 - FEES, RENTS AND CHARGES

§ 21-180. Authorization.

Every commission is authorized to charge and collect fees, rents, or other charges for the use and services of the sewage disposal system. Such fees, rents and charges may be charged to and collected from any person contracting for the same or from the owner or lessee or tenant, or some or all of them, who uses or occupies any real estate which directly or indirectly is or has been connected with the sewage disposal system, or from or on which originates or has originated sewage or industrial wastes, or either, which directly or indirectly have entered or will enter the sewage disposal system, and the owner or lessee or tenant of any such real estate shall pay such fees, rents and charges to the commission at the time when and place where such fees, rents and charges are due and payable.

1938, p. 517; 1940, p. 622; Michie Code 1942, § 1560nn.

§ 21-181. Uniformity and basis.

Such fees, rents and charges being in the nature of use or service charges, shall as nearly as the commission shall deem practicable and equitable, be uniform throughout the district 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 allowance 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 on 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.

1938, p. 517; 1940, p. 622; Michie Code 1942, § 1560nn.

§ 21-182. Schedule.

The commission shall prescribe and from time to time when necessary revise a schedule of such fees, rents and charges which shall comply with the terms of any contract of the commission with the holders of bonds of the commission made pursuant to §§ [21-192](#) and [21-194](#) and in any event shall be such that the revenues of the commission will at all times be adequate to pay all expenses of operation and maintenance of the sewage disposal system of the commission, necessary to preserve the system and to assure its operation as a going concern, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds or other indebtedness of the commission and to maintain adequate reserves or sinking funds therefor. The schedule shall be so prescribed and from time to time revised by the commission after public hearing which shall be held by the commission upon such public notice as the commission may determine to be reasonable.

1938, p. 517; 1940, p. 622; Michie Code 1942, § 1560nn.

§ 21-183. Time and place of payment.

The commission shall likewise fix and determine the time or times when and the place or places where such fees, rents and charges shall be due and payable and may require that such fees, rents and charges shall be paid in advance for periods of not more than six months.

A copy of the schedules of all fees, rents and charges in effect shall at all times be kept on file at the principal office of the commission, and such schedules shall at all reasonable times be open to public inspection.

1938, p. 518; 1940, p. 622; Michie Code 1942, § 1560nn.

§ 21-184. Effect of failure to pay.

In the event that the fees, rents or charges charged by the commission for the use and services of the sewage disposal system by or in connection with any real estate shall not be paid as and when due, then and at that time interest shall begin to accrue thereon at the rate of one per centum 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, it shall be the duty of each county, city, town and other public corporation, board or body supplying water to or selling water for use on, such real estate, within five days after receipt of notice of such facts from the commission, to cease supplying water to, and selling water for use on, such real estate. If such county, city, town or other public corporation, board or body shall not within such time cease supplying water to, and selling water for use on, such real estate, the commission may shut off the supply of water to such real estate and for such purpose, may enter on any lands, waters and premises of such county, city, town or other public corporation, board, or body, or of any person. The water supply to or for any person, or for use on real estate of any person, 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 and the health of others in such county, city or town.

1938, p. 518; 1940, p. 623; Michie Code 1942, § 1560nn.

§ 21-185. Register.

The commission shall keep and preserve a complete register, or registers, open to public inspection, of all fees, rents and other charges which have been charged by the commission to the owners or less-ees or tenants of any real estate for the use and services of the sewage disposal system and have become due and payable and have not been paid. Such register or registers shall be kept in such place or places as the commission shall determine.

1938, p. 518; 1940, p. 623; Michie Code 1942, § 1560nn.

§ 21-186. Appeal from action fixing fees, etc.

From any action of the sanitation commission in prescribing fees, rents and charges, or either of them, pursuant to the provisions of this chapter, an appeal may be taken upon the petition of any county or city constituting a part of the district, or upon petition of any 50 persons, resident or doing business in the district, to the State Corporation Commission. At least 60 days prior to filing such petition with the State Corporation Commission, such county, city or interested parties shall notify the sanitation commission of such intended petition and of the fees, rents and charges complained of, in order that the sanitation commission may be afforded an opportunity to make such changes in such fees, rents and charges as it shall deem proper. After such petition shall have been filed with the State Corporation Commission and after such county or city or other petitioners shall have, if required by the State Corporation Commission, executed and filed with the State Corporation Commission a bond payable to the Commonwealth and sufficient in amount, but not in excess of \$5,000, and security to insure the prompt payment of all costs which may be assessed against such county or city or other petitioners, and after such county or city or other petitioners shall have caused to be published in at least one newspaper, designated by the commission and of general circulation within the district, such notice of

such appeal as shall be prescribed by the State Corporation Commission, the State Corporation Commission is authorized to make such examinations and studies, to hold such hearings as may be required, to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the State Corporation Commission or any officer or agent thereof, to administer oaths and to take testimony thereunder, and to fix in accordance with the provisions of this chapter applicable to the sanitation commission, subject to the right of further appeal by the sanitation commission or the interested parties to the Supreme Court, such fees, rents and charges. In each such appeal proceeding the State Corporation Commission shall ascertain the costs incurred by it, including in such costs actual expenses incurred and a fair apportionment of overhead expenses, and shall assess the same against either the petitioner or petitioners, or the sanitation commission, or shall apportion the costs between the petitioner or petitioners and the sanitation commission, according to principles applicable in courts of equity.

1940, p. 623; Michie Code 1942, § 1560nn; 2010, c. [343](#).

§ 21-187. Actions for collection.

The commission shall have the right to recover the amount of any fees, rents or other charges charged by the commission to the owner or lessee or tenant or contracting party, as set forth in § [21-180](#), for the use and services of the sewage disposal system by or in connection with such real estate and of the interest which may accrue thereon, by any action, suit or proceeding permitted by law or in equity.

1938, p. 525; 1940, p. 624; Michie Code 1942, § 1560zz.

§ 21-188. Contracts for collection.

Any commission, and any county, city or town in whole or in part embraced within the district, are authorized to enter into a contract or contracts on such terms and conditions as such contract or contracts may contain, providing for the collection by such county, city or town and payment over to the commission of the fees, rents or other charges or to be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town, or providing for the payment to the commission by such county, city or town of a sum or sums of money in lieu of all or part of the fees, rents and other charges which would otherwise be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town. Such county, city or town is vested with powers to do everything necessary or proper to carry out and perform every such contract, including the same powers with respect to fees, rents and other charges as are conferred by this chapter upon a commission, and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations, except that no tax shall be levied on real estate for such obligation. The commission is authorized to reduce ratably in accordance with such contract the fees, rents and other charges which would otherwise be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town, but nothing in this section or any such contract shall be construed to prevent the commission from charging to and collecting from such owners or lessees or tenants of such real estate, in the same manner as provided for

such fees, rents and other charges, any deficiency in any payment agreed to be made by such county, city or town.

1938, p. 526; Michie Code 1942, § 1560aaa.

Article 5 - BONDS

§ 21-189. Outstanding bonds not to exceed ten million dollars.

Bonds of a commission shall at no time be outstanding in a principal amount in excess of \$10 million.

1938, p. 519; 1942, p. 604; Michie Code 1942, § 1560oo.

§ 21-190. Election prior to issuance.

No bonds shall be issued by a commission, except to fund or refund bonds theretofore issued and thus to redeem a previous liability, unless the qualified voters of the district shall approve by a majority vote of the qualified voters voting in an election the issuance of the bonds. Whenever the commission shall determine by resolution that it is advisable to issue bonds for the purposes of the commission, such resolution shall be certified to the circuit court of a county or corporation court of a city in whole or in part embraced within the district and the court shall thereupon make an order requiring the opening of a poll and the taking of the sense of the qualified voters of the district in accordance with [§ 21-143](#) on the question of issuing the bonds in not exceeding the amount stated in such resolution. The question so submitted shall be "Do you favor the issuance of not exceeding \$..... bonds of the..... sanitation district commission (inserting the amount of bonds stated in such resolution and the name of the commission)?" If upon the certification of the result of the election made by the Secretary of the Commonwealth to the court, it shall appear that a majority of the qualified voters of the district voting at the election shall have voted "yes" and in favor of the issuance of the bonds, the court shall make and enter of record an order stating such result and thereupon the commission shall have power in accordance with this article to issue bonds in not exceeding the amount stated in such resolution and, in anticipation of the issuance of such bonds, to borrow money on temporary loan and issue temporary bonds therefor.

1938, p. 519; 1942, p. 604; Michie Code 1942, § 1560oo.

§ 21-191. Other matters determined by resolution.

All other matters relating to the issuing of such bonds, and all matters relating to the contracting of debt, borrowing of money and issuing of other bonds and obligations shall be determined by resolution of the commission.

1938, p. 519; 1942, p. 604; Michie Code 1942, § 1560oo.

§ 21-192. Form and contents.

Bonds shall be authorized by resolution of the commission, and shall be issued from time to time in one or more series, be in such form, bear such date or dates, mature at such time or times not more than forty years from the date of issuance thereof, bear interest at such rate or rates not exceeding six per centum per annum, be in such denomination, carry such registration privileges, be executed in

such manner, be payable in such medium of payment, at such place or places, be subject to acceleration of maturity on such contingencies and terms, and be subject to such terms of redemption with or without premium, as such resolution shall provide.

1938, p. 519; 1942, p. 604; Michie Code 1942, § 1560oo.

§ 21-193. How sold.

Such bonds may be sold at public or private sale for such price or prices as the commission shall determine, provided the interest cost to maturity of the money received from any such bonds simultaneously sold shall not exceed an average of six per centum per annum.

1938, p. 519; 1942, p. 605; Michie Code 1942, § 1560oo.

§ 21-194. Resolutions may be part of contract with bondholders.

Any resolutions of the commission authorizing any bonds may contain provisions, which shall be a part of the contract with the several holders of such bonds and accordingly subject to amendment by mutual agreement of the commission and the holders of all of such bonds, as to:

(1) Pledging, setting aside, depositing or trusteeing any or all revenues or funds of the commission to secure the payment of the principal of or interest on such bonds or other bonds of the commission or the payment of expenses of construction, operation or maintenance of the sewage disposal system, including provisions giving priority, notwithstanding any provision or rule of law otherwise to the contrary, to the obligation to perform such contractual provisions to secure payment of such principal or interest over any or all other obligations and liabilities of the commission;

(2) Payment of the principal of or interest on such bonds or other bonds of the commission, and the sources and methods thereof;

(3) The fees, rents and other charges to be established and collected by the commission, the collection and enforcement of the same, and the use, disposition and application of the amounts collected;

(4) The setting aside of reserves and sinking funds and the source, regulation, application and disposition thereof;

(5) The determination or definition of the revenues and income of the commission and of the expenses of operation and maintenance of the sewage disposal system;

(6) The use, regulation, operation, maintenance, insurance and disposition of the sewage disposal system, facilities and other property of the commission;

(7) Restrictions on the power of the commission to limit and regulate the use of the sewage disposal system, facilities and other property of the commission;

(8) Limitations on the purposes to which the proceeds of such bonds or other bonds of the commission may be applied;

(9) The construction and completion of all or any part of the sewage disposal system or any facilities of the commission;

(10) Limitations on the issuance of additional bonds or on the indebtedness of the commission;

(11) The procedure, if any, by which the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced;

(12) Payment of costs or expenses incident to the enforcement of such bonds or of the provisions of such resolution or of any contract with the holders of such bonds, in accordance with this article; or

(13) Any other matter which the commission shall determine to be necessary in order to carry out and effectuate the purposes of the commission.

1938, p. 520; 1942, p. 605; Michie Code 1942, § 1560oo.

§ 21-195. Negotiability.

Any provisions of law to the contrary notwithstanding, any bonds or temporary bonds issued pursuant to the authority of this chapter shall be deemed to be fully negotiable within the meaning and for all the purposes of Title 8.3A.

1938, p. 521; 1942, p. 606; Michie Code 1942, § 1560.

§ 21-196. Liability of Commonwealth, county, city or town.

The bonds, notes and other obligations, and any indebtedness, of a commission shall not be in any way a debt or liability of the Commonwealth, or of any county, city or town in whole or in part embraced within the district and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth or of any such county, city or town, either legal, moral or otherwise, and nothing in this chapter contained shall be construed to authorize a commission or district to incur any indebtedness on behalf of or in any way to obligate the Commonwealth or any county, city or town, in whole or in part embraced within the district.

1938, p. 528; Michie Code 1942, § 1560ddd.

§ 21-197. No personal liability.

Neither the members of the commission, nor any person executing any bonds or temporary bonds shall be liable personally on the bonds or temporary bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

1938, p. 521; 1942, p. 606; Michie Code 1942, § 1560oo.

§ 21-198. Purchase by commission.

The commission is authorized, out of any funds available therefor, to purchase any bonds of the commission at a price not more than the redemption price thereof on the next succeeding redemption date or, if such bonds be not redeemable, the principal amount thereof, together with, in either case, interest accrued to the date of purchase.

1938, p. 521; 1942, p. 606; Michie Code 1942, § 1560oo.

§ 21-199. Bonds constitute legal investments.

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, in the Commonwealth, may properly and legally invest funds in their control.

1938, p. 528; Michie Code 1942, § 1560eee.

§ 21-200. Special remedies of bondholders.

(a) The provisions of this section shall be applicable to a series of bonds of a commission only if the resolution or resolutions authorizing such series of bonds shall provide in substance that the holders of the bonds of such series shall be entitled to all the benefits, and be subject to the provisions of this section.

(b) In the event that the commission shall default in the payment of the principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the commission shall fail or refuse to comply with the provisions of this chapter relating to or affecting the payment or security of such bonds or the collection of fees, rents or charges, or other revenues therefor, or shall fail or refuse to carry out and perform the terms of any contract with the holders of any of such bonds, and such failure or refusal shall continue for a period of thirty days after written notice of its existence and nature to the commission the holders of twenty-five per centum in aggregate principal amount of such bonds then outstanding, by instrument or instruments filed with the Governor and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of all bonds of such series for the purposes herein provided.

(c) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds of such series then outstanding shall, in his or its name:

(1) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds, including the right to require the commission to collect fees, rents and other charges adequate to carry out any agreement as to, or pledge of, such fees, rents or other charges, or the revenues therefrom, and to require the commission to carry out and perform the terms of any contract with the holders of such bonds or its duties under this chapter;

(2) Bring suit upon all or any part of such bonds;

(3) By action or suit in equity, require the commission to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action or suit in equity, enjoin any act or thing which may be unlawful or in violation of the rights of the holders of such bonds;

(5) Declare all such bonds due and payable, whether or not in advance of maturity, and, if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences, provided that before declaring such bonds due and payable, the trustee shall first give thirty days' notice in writing to the commission.

(d) If the resolution or resolutions authorizing such series of bonds shall contain the provision authorized by subsection (a) of this section and shall further provide in substance that any trustee appointed pursuant to this section shall have the powers provided by this subsection, then such trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may enter upon and take possession of any facilities or property operated by the commission, any of the revenues from the operation of which are pledged for the security of such bonds, and operate and maintain the same and fix, charge, collect and receive all fees, rents and other charges and other revenues thereafter arising from such operation in the same manner as the commission itself might do, and shall deposit all moneys collected in a separate account and apply the same in accordance with the duties and contracts of the commission in such manner as the court appointing such receiver shall direct.

(e) In any suit, action or proceeding by such trustee, the fees, counsel fees and expenses of such trustee and of the receiver, if any, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court shall be a first charge upon any fees, rents and other charges, and revenues of the commission pledged for the payment or security of such bonds.

(f) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the holders of the bonds of such series in the enforcement and protection of their rights.

1938, p. 521; Michie Code 1942, § 1560pp.

§ 21-200.1. Bonds mutilated, lost or destroyed.

Should any bond issued by the commission become mutilated or be lost or destroyed, the commission may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of, such mutilated bond and its interest coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expense and charges in connection therewith and (2) in the case of a lost or destroyed bond, has filed with the chairman of the commission satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the commission.

1962, c. 207.

§ 21-201. Interim certificates.

Pending the preparation, execution and delivery of definitive bonds of the commission to the purchaser of such bonds, interim certificates or other obligations may be issued by the commission to the purchaser. Such interim certificates or obligations shall be in such form and contain such terms, conditions and provisions as the commission issuing the same may determine.

1938, p. 522; Michie Code 1942, § 1560qq.

§ 21-202. Inviolability of rights and remedies.

The Commonwealth does pledge to and agree with the holders of any bonds or other obligations issued by any commission pursuant to this chapter that the Commonwealth will not limit or alter the rights hereby vested in such commission to charge and collect such fees, rents and charges and other revenues as may be convenient or necessary in order to comply with the terms and provisions of any contract or contracts made by such commission with such holders, or in any way impair the rights and remedies of such holders, until the bonds and other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged.

1938, p. 529; Michie Code 1942, § 1560hhh.

Article 6 - WITHDRAWALS FROM DISTRICT

§ 21-203. Notice of intention to withdraw.

Any county or city in whole or in part embraced within a district either heretofore or hereafter created by or pursuant to any special act of the General Assembly may, by resolution adopted by its governing body and filed with the commission within six months after the creation of the district, give notice of its intention to consider withdrawing from the district. If such notice be given in the manner aforesaid then no election on the question of the issuance of bonds of the commission shall be held until at least one year after the creation of the district.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-204. Right to withdraw and set up separate district.

If after the giving of such notice and within one year after the creation of the district such county or city shall have taken all proceedings and performed all acts necessary for the authorization of the construction, financing and operation by or for it of a separate sewage disposal system, sufficient in the opinion of the State Health Commissioner to prevent the pollution of any of the tidal waters of the district from industrial wastes and sewage arising in or discharged from the county or city, then such county or city shall be entitled to withdraw from the district and shall thereafter cease to be a part of the district for all purposes of this chapter.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-205. Proof that steps for withdrawal have been taken.

The governing body of any county or city proposing to avail itself of the provisions of this article shall, within one year after the creation of the district, furnish to the commission satisfactory proof showing

that it has theretofore taken all proceedings necessary and performed all acts necessary to enable it to construct, finance and operate such proposed separate sewage disposal system; in the event that the commission shall not agree with the governing body of such county or city upon the sufficiency of such proceedings and acts and proof thereof, such governing body may within thirty days petition any circuit or corporation court having jurisdiction in such county or city which shall thereupon be authorized to hear and determine whether or not such county or city has complied with the applicable provisions of § [21-204](#) and entitled itself to withdraw from the district.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-206. Power of county or city electing to set up separate district.

Any county or city which elects to construct and operate therefor a separate sewage disposal system in accordance with the provisions of § [21-204](#) and the governing body thereof, for the purpose of constructing, financing and operating such sewage disposal system, shall be vested with all the rights and powers and charged with all the duties otherwise vested in and imposed upon the commission with reference to such county or city, including the power to issue its bonds, construct and operate the sewage disposal system, and fix, charge and collect fees, rents and charges for the use of such sewage disposal system.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-207. Withdrawal must be within one year.

The transfer and vesting of rights, powers and duties shall be no longer operative if the county or city electing to withdraw shall not entitle itself to withdraw from the district within one year after the creation of the district.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-208. Additional rights conferred on city or county withdrawing.

The foregoing provisions of § [21-206](#) shall be deemed to confer additional rights and powers upon any such county or city affected, and shall in no wise deprive any such county or city of any rights and powers otherwise vested in and conferred upon such county or city by general law or charter provisions.

1940, p. 620; 1942, p. 602; Michie Code 1942, § 1560kk1.

§ 21-209. No election on issuance of bonds within six months.

No election upon the question of the issuance of bonds of the commission shall be held within the first six months after the creation of the district. In the event no notice of intention to consider withdrawing from the district, in accordance with the foregoing provisions of §§ [21-203](#) to [21-208](#), is filed with the commission within six months after the creation of the district, then no county or city therein may thereafter avail itself of the provisions of such sections to withdraw from such district.

1940, p. 621; 1942, p. 603; Michie Code 1942, § 1560kk1.

§ 21-210. Disposal system to be erected by separate district.

Any county or city which elects to construct and operate therein a separate sewage disposal system in accordance with the foregoing provisions of § [21-203](#) shall, within the period hereinafter limited for the construction of such sewage disposal system, construct and provide and have in operation in such county or city a sewage disposal system sufficient in the opinion of the State Health Commissioner to prevent the pollution of any and all tidal waters of the district, and any and all tidal waters within the county or city, from industrial wastes and sewage arising in or discharged from the county or city; and the commission is authorized and empowered to proceed by appropriate court action to require the county or city and the governing body thereof to provide therein such required sewage disposal system. From and after the expiration of such period, no such county or city nor any public body or person therein shall discharge or suffer to be discharged directly or indirectly into any tidal waters of the district, or tidal waters in such county or city, any sewage, industrial wastes or other refuse which may or will cause or contribute to pollution of any such tidal waters; this provision shall be enforceable in the manner provided for by § [21-220](#). The period for the construction of such sewage disposal system, as hereinabove referred to, shall be three years from the creation of the district and such further period of time, not exceeding an additional two years, as the commission, upon application of the governing body of the county or city and after public hearing which shall be held by the commission upon such public notice as the commission may determine to be reasonable, may find to be necessary for completion of such construction by reason of causes which shall not be or have been within the control of such county or city or the governing body thereof.

1940, p. 621; 1942, p. 603; Michie Code 1942, § 1560kk1.

§ 21-211. City withdrawing to provide for disposal of sewage of county or town.

If any city shall withdraw from the district pursuant to the foregoing provisions of this article, such city, if requested by the commission or the governing body of any county or town adjacent to such city, shall provide by its sewage disposal system for the treatment and disposal of sewage and industrial wastes arising in or discharged from such county or town upon such sewage and industrial wastes being delivered to such city, and shall agree with the commission or such county or town to treat and dispose of such sewage and wastes so delivered at the cost of such treatment and disposal, provided the commission or the county or town affected shall pay to the city the cost of installing any additional sewer main or mains necessitated thereby within such city. If the parties do not agree upon such costs, such costs shall be determined upon petition to the State Corporation Commission which is hereby authorized and directed to make such determination.

1940, p. 621; 1942, p. 603; Michie Code 1942, § 1560kk1.

§ 21-212. Effect of nonappointment of members of commission on withdrawal.

In the event that the members of the commission shall not be appointed within two months after the creation of the district then the date of the first appointment of such members shall be deemed to be the date of the creation of such district for all the purposes of withdrawal provided by this article.

1940, p. 621; 1942, p. 604; Michie Code 1942, § 1560kk1.

§ 21-213. Member of commission becoming nonresident because of removal or withdrawal.

If any member of a commission shall, through removal from the district or through any withdrawal or exclusion of any part or parts of any district, cease to reside within the district he shall thereupon be disqualified for holding office as a member of the commission, and the vacancy thus created shall be filled as otherwise provided.

1940, p. 621; 1942, p. 604; Michie Code 1942, § 1560kk1.

Article 7 - POWERS AND DUTIES OF COUNTIES, CITIES AND TOWNS

§ 21-214. Plans, maps, etc., to be available to commission.

Each county, city or town in whole or in part embraced within a district shall, at the request of the commission, make available to the commission or the agents or employees thereof, any or all maps, plans, specifications, records, books, accounts or other data or things deemed necessary by the commission in the exercise of its powers and duties under this chapter.

1938, p. 526; Michie Code 1942, § 1560bbb.

§ 21-215. Payments by county, city or town.

Each county, city, town or other public body shall promptly pay to any commission all fees, rents and charges which the commission may charge to it as owner or lessee or tenant of real estate in accordance with § [21-180](#), and shall provide for the payment thereof in the same manner as other obligations of such county, city, town or public body.

1938, p. 527; Michie Code 1942, § 1560bbb.

§ 21-216. Contracts with counties, cities and towns outside of district.

Any commission, and any county, city or town in whole or in part outside of the district, is authorized to enter into a contract on such terms and conditions as such contract may contain, providing for or relating to the treatment and disposal of sewage or industrial wastes originating in such county, city or town, by means of the sewage disposal system or such other facilities as the commission may determine to provide for such purpose, and such county, city or town is authorized to do everything necessary or proper to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations.

In the event any such contract is entered into in accordance with the provisions of this section, provision shall be made therein whereby the cost of rendering the services herein referred to, to such county, city or town, will be borne by such county, city or town.

1938, p. 527; Michie Code 1942, § 1560bbb.

§ 21-217. Powers conferred on counties, cities and towns in addition to other powers.

The powers conferred by this chapter on counties, cities and towns are in addition and supplemental to the powers conferred by any other law, and may be exercised by resolution of the governing bodies thereof without regard to the terms, conditions, requirements, restrictions or other provisions contained in any other law, general or special, or in any charter, except that where fees, rents and charges are fixed by a city or town, that power shall be exercised by ordinance.

1938, p. 527; Michie Code 1942, § 1560bbb.

Article 8 - PROHIBITIONS AND PENALTIES

§ 21-218. Discharge into tidal waters of matter causing pollution.

No county, city, town or other public body, or person shall discharge, or suffer to be discharged, directly or indirectly into any tidal waters of the district any sewage, industrial wastes or other refuse which may or will cause or contribute to pollution of any tidal waters of the district, provided, that this provision shall be applicable only to such part or parts of the tidal waters of a district as shall be bounded and described in a notice, published in a newspaper or newspapers having, in the aggregate, general circulation in all of the counties and cities within which or bordering upon which such part or parts of the tidal waters of the district are located, to the effect that the commission has provided facilities reasonably sufficient in its opinion for the disposal of sewage, which by discharge from public sewer systems might cause or contribute to pollution of the bounded and described part or parts of such tidal waters, and that pollution of the same is forbidden by law. Such a notice shall constitute prima facie evidence of the existence of facilities sufficient for the disposal of such sewage. The provisions of this section shall not prohibit the disposal of sewage and industrial wastes in the manner in which the same is now being disposed of, or in any other reasonable manner, by any county, city or town, no part of which constitutes a part of any district, or by any person in any such county, city or town, no part of which constitutes a part of any district.

1938, p. 527; Michie Code 1942, § 1560ccc.

§ 21-219. Discharge of matter injurious to system.

No county, city, town or other public body, or person shall discharge, or suffer to be discharged, directly or indirectly, into the sewage disposal system or any other facilities of or provided by a commission, any matter or thing which is or may be injurious or deleterious to such sewage disposal system or other facilities.

1938, p. 528; Michie Code 1942, § 1560ccc.

§ 21-220. Remedies to prevent violation.

Any county, city, town or other public body, or person may be restrained, enjoined or otherwise prevented from violating or continuing the violation of any provision of §§ [21-218](#) and [21-219](#) by injunction, mandamus or any other appropriate remedy at law or in equity, by any court of competent jurisdiction, upon action, bill, suit or other proceeding instituted by the commission or by any attorney for the Commonwealth.

1938, p. 528; Michie Code 1942, § 1560ccc.

§ 21-221. Jurisdiction.

Jurisdiction to enforce the provisions of this article and to grant any remedy or relief authorized by § [21-220](#) shall be in the circuit court of any county and in the corporation court of any city in whole or in part embraced within the district, or within which are located any tidal waters of the district. The

remedies, relief and jurisdiction authorized by this section and § [21-220](#) shall be concurrent and cumulative.

1938, p. 528; Michie Code 1942, § 1560ccc.

§ 21-222. Discharge of sewage from vessel while afloat, etc.

No violation of any provision of this article shall be deemed to occur by reason of the discharge of sewage from any boat or vessel while afloat or on a marine railway or in dry dock.

1938, p. 528; Michie Code 1942, § 1560ccc.

§ 21-223. Punishment of violations.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished accordingly.

1938, c. 530; Michie Code 1942, § 1560iii.

Chapter 4 - SANITATION DISTRICTS LAW OF 1946 -- NONTIDAL WATERS

Article 1 - General Provisions

§ 21-224. Short title.

This chapter may be known, designated and cited as the "Sanitation Districts Law of Nineteen Hundred and Forty-Six."

1946, p. 346; Michie Suppl. 1946, § 1560iii1.

§ 21-225. Definitions.

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) The term "district" means a sanitation district created and existing pursuant to §§ [21-228](#) to [21-236](#) or heretofore or hereafter created by a special act of the General Assembly for the purpose of taking advantage of the provisions of this chapter;

(2) The term "commission," except where the context requires reference to the board or commission mentioned and provided for in § [21-238](#), means the body corporate or politic comprising a district and its inhabitants created and existing pursuant to § [21-237](#);

(3) The term "chairman" means the chairman of a commission;

(4) The term "sewage disposal system" or "facilities," used in relation to a commission, means the sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property operated by the commission for the purposes of the commission;

(5) The term "waters of the district" means all well defined rivers, creeks or other watercourses or streams within the district, provided they are not "tidal waters of the district" as that term is defined in the sanitation districts law of 1938;

- (6) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource;
- (7) 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 building, together with such surface or ground water and industrial wastes as may be present;
- (8) The term "pollution" means the condition of water resulting from any of the following acts:
- (a) Unreasonably contaminating such water;
 - (b) Rendering such water unclean or impure;
 - (c) Rendering such water directly or indirectly injurious to public health, or unfit for public use;
 - (d) Rendering such water harmful for cattle, stock or other animals;
 - (e) Rendering such water unfit for commercial use;
- (9) The term "construct" includes construct, reconstruct, replace, improve and repair;
- (10) The term "person" includes an individual, partnership, association, or corporation;
- (11) The term "governing body" shall mean the board of supervisors, board of county commissioners, council or other local legislative body, board, commission, or other legislative authority having charge of the finances of any county, city or town;
- (12) The term "town" means an incorporated town;
- (13) The term "county" means a county exclusive of that portion thereof lying within the boundaries of an incorporated town.

1946, p. 347; Michie Suppl. 1946, § 1560iii2.

§ 21-226. Ordering and conduct of elections.

Every order made pursuant to this chapter requiring the opening of a poll and the taking of the sense of the qualified voters of a district or proposed sanitation district on a question shall designate the question and a date for holding such election not less than thirty days from the date of such order, and may be directed as writs of election are directed for an election district, or to fill a vacancy in the General Assembly or in Congress. It shall be the duty of the regular election officers of the counties and cities in whole or in part embraced within the district or proposed sanitation district to cause to be printed and distributed in the manner prescribed by law for printing and distributing other ballots the proper number of ballots which shall be separate from any other ballots. The ballots shall set forth the question designated in such order and shall be in substantially the following form:

(Here shall appear the question designated in the order)

☐ YES

☐ NO

To vote "Yes" on the question, place a checkmark (✓) or cross (+ or X) in the space opposite the word "Yes"; to vote "No" on the question, place a checkmark (✓) or cross (+ or X) in the space opposite the word "No."

The regular election officers, at the time designated in such order, shall open the polls at the various voting places in the district or proposed sanitation district and at any other voting places at which any qualified voter of the district or proposed sanitation district is entitled to vote, and shall conduct such election and close the polls in such manner as is provided by law in other elections. The ballots shall be counted and returns made and canvassed and the results ascertained and made known as in other elections, and the results certified by the commissioners of election to the Secretary of the Commonwealth, all in such manner as to show the respective numbers of affirmative and negative votes cast at the election. The Secretary of the Commonwealth shall record and tabulate the reports of the commissioners of election and shall certify the result of the election to the court which made the order authorizing and requiring such election.

1946, p. 364; Michie Suppl. 1946, § 1560iii25.

§ 21-227. Court proceedings.

Wherever in this chapter the circuit court of any county, or the corporation court of any city, is authorized to accept any petitions or papers, make any order, hold any hearing, hear, consider and determine any question or do any other act or thing, such court, or a judge thereof in vacation, may do and perform the same.

1946, p. 365; Michie Suppl. 1946, § 1560iii26.

Article 2 - CREATION OF DISTRICTS

§ 21-228. Territory which may be embraced in district.

Any integral body of territory within which are situated rivers, creeks or other watercourses or streams, not affected by ebb and flow of the tide, and none of which are embraced within any other sanitation district may, under the conditions and upon the taking and completion of the proceedings provided in this article, be created a sanitation district. Every part of the boundary of such a sanitation district shall either (1) coincide with the boundary of a county, city or town or (2) bisect a county, city or town, or (3) be located within one mile of the boundary of a county, city or town, or (4) consist of a straight line connecting two points each of which lies upon a boundary of one of the three types hereinabove described.

1946, p. 348; Michie Suppl. 1946, § 1560iii3.

§ 21-229. Notice of hearing on petition for creation.

Upon the presentation of a petition complying with the requirements of this article, praying for the creation of a sanitation district, fixing the boundaries thereof and naming the counties, cities and towns which in whole or in part are to be embraced therein, the circuit court of any such county, or of any county in which any such town is situated, or the corporation court of any such city shall make an

order filing such petition and fixing a day for a hearing by such court on such petition and the question of the creation of the proposed sanitation district. Such order shall direct notice of such hearing to be given by publication once a week for at least three consecutive weeks beginning at least twenty-eight days prior to the day of such hearing in some newspaper or newspapers, named in such order, having general circulation in the proposed sanitation district. Such notice shall set forth the petition as filed, but need not set forth the signatures or exhibits thereto, and shall state the time and place of hearing and that at such hearing all persons desiring to controvert the allegations of such petition or question the conformity thereof to this article will be heard and all objections to the creation of the proposed sanitation district considered.

1946, p. 348; Michie Suppl. 1946, § 1560iii3.

§ 21-230. Contents of petition.

Every such petition shall pray for the creation of the proposed sanitation district, and set forth the name of the proposed sanitation district (which shall include the words "sanitation district"), shall fix the boundaries thereof, shall name the cities and counties and towns which are in whole or in part to be embraced therein and shall contain an allegation (1) that the proposed sanitation district includes within its territorial limits watercourses or streams which are polluted, (2) that no part of the proposed sanitation district is within the territorial limits of an existing sanitation district, (3) that the proposed sanitation district is an integral whole and does not completely surround any territory not included in the proposed or some existing sanitation district, (4) that the creation of the proposed sanitation district in accordance with this chapter will provide a means for abating or preventing the pollution of waters of the proposed sanitation district and will benefit all the property within the proposed sanitation district, (5) that the creation of the proposed sanitation district has been approved by the State Health Commissioner as providing a practical means for abating or preventing the pollution of the waters of the proposed sanitation district, (6) that the petition has been approved and the prayer thereof joined in by each city, county and town which is in whole or in part embraced within the proposed sanitation district, expressed by resolution adopted by the vote of a majority of the governing body thereof.

1946, p. 348; Michie Suppl. 1946, § 1560iii3.

§ 21-231. Signatures on petition.

Every such petition shall be signed by not less than 100 qualified voters of the proposed sanitation district, including not less than 25 qualified voters of each city and county and town in whole or in part embraced within the proposed sanitation district.

1946, p. 349; Michie Suppl. 1946, § 1560iii3.

§ 21-232. Hearing and determination; ordering election.

Any person interested may answer the petition and make defense thereto and at such hearing all persons interested or desiring to controvert the allegations of the petition or question the conformity thereof to this article or object to the creation of the proposed sanitation district shall be heard. If upon such hearing the court shall not be satisfied that the allegations of the petition are sustained and that

the petition conforms to the provisions of this article, it shall make an order denying and dismissing the petition. If upon such hearing the court shall be satisfied that the allegations of the petition are sustained and that the petition conforms to the provisions of this article and that all of the property in the proposed sanitation district will be benefited by the creation of the proposed sanitation district and that the public interest will be served and the public health protected by such creation, it shall make an order determining such matters and requiring the opening of a poll and the taking of the sense of the qualified voters of the proposed sanitation district in accordance with § [21-226](#) on the question of the creation of the proposed sanitation district. The question so submitted shall be "Do you favor the creation of the..... (inserting name of the proposed sanitation district stated in the said petition)?"

1946, p. 349; Michie Suppl. 1946, § 1560iii3.

§ 21-233. Order when election favors establishment.

If upon the certificate of the result of the said election made by the Secretary of the Commonwealth to such court it shall appear that a majority of the qualified voters of the proposed sanitation district voting at the election shall have voted "yes" and in favor of the creation of the proposed sanitation district, the court shall make and enter of record an order stating such result, and thereupon the territory defined in the petition, less such parts thereof as shall be excluded pursuant to the provisions of § [21-234](#) shall be and constitute a sanitation district for all the purposes of this chapter, known and designated by the name stated in the petition.

1946, p. 349; Michie Suppl. 1946, § 1560iii3.

§ 21-234. Exclusion from district of county, city or town voting against establishment.

If upon the certification of the results of the election provided for in § [21-233](#) it shall appear that a majority of the qualified voters of the portion of any county, or of any city or of any town voting on the question at the election, shall have voted "no" against the creation of the proposed sanitation district, then the territory included within the limits of such county or of such city, or of such town, shall be excluded from, and shall not constitute a part of such district.

1946, p. 349; Michie Suppl. 1946, § 1560iii3.

§ 21-235. Approval of State Health Commissioner.

The State Health Commissioner is authorized, upon being satisfied that the creation of a proposed sanitation district will provide a practical means for abating or preventing the pollution of the waters of the proposed sanitation district, to approve, as above referred to, the creation of the proposed sanitation district.

1946, p. 349; Michie Suppl. 1946, § 1560iii3.

§ 21-236. Governing bodies may adopt resolutions.

The governing body of each city and county and town is authorized, in its discretion, to adopt resolutions, as above referred to, approving and joining in the prayer of petitions for the creation of a proposed sanitation district.

1946, p. 350; Michie Suppl. 1946, § 1560iii3.

Article 3 - COMMISSION

§ 21-237. Creation.

In and for each district heretofore or hereafter created pursuant to this chapter or pursuant to a special act of the General Assembly, a commission is hereby created as a body corporate, invested with the rights, powers and authority and charged with the duties set forth in this chapter. The commission shall be known by the name of the district, except that the word "commission" shall be substituted for the word "district." Except as a special act creating the district shall otherwise provide, the commission shall consist of seven members, residents of the district, appointed by the State Health Commissioner, in the manner hereinafter provided, who shall notify each governing body immediately after such appointments. Representation on the commission shall be apportioned among the political segments of the district on a population basis so far as it may be practical to do so; but each political segment, however, shall be entitled to at least one representative on the commission; and all appointments thereto shall be made by the State Health Commissioner from a list of not less than one nor more than five names furnished to him by the respective governing bodies of each political segment of the district. Except as a special act creating the district shall otherwise provide, in making the original appointments, one of the members shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and two for terms of four years each; subsequent appointments shall be made for a term of four years, except appointments to fill vacancies which shall be for the unexpired terms. Members of the commission shall hold office until their successors have been duly appointed and qualified.

1946, p. 350; Michie Suppl. 1946, § 1560iii4.

§ 21-238. Officers of commission.

The commission, at its organization meeting and thereafter at its first meeting in each calendar year, shall elect one of the members of the commission, chairman thereof. The commission under such rules as it may adopt, may elect one of its members vice-chairman, and may appoint a secretary, or secretary-treasurer, who shall not be a member of the commission; in the event that the commission appoints a secretary-treasurer, his compensation shall be fixed by the commission.

1946, p. 350; Michie Suppl. 1946, § 1560iii4.

§ 21-239. Compensation and expenses of members.

The members of the commission, including the chairman, shall receive no salary, but shall be paid their necessary traveling and other expenses incurred in attendance upon meetings of the commission or while otherwise engaged in the discharge of their duties under this chapter, and the sum of \$10 per diem for each day or portion thereof in which they are engaged in the performance of such duties, but the total of such per diem compensation so received by any member during any one year shall not exceed \$300.

1946, p. 350; Michie Suppl. 1946, § 1560iii4.

§ 21-240. Meetings.

Regular meetings of the commission shall be held at least once every month at such time and place as the commission shall from time to time prescribe. Special meetings of the commission shall be held upon one day's mailed notice, or actual notice otherwise given, to each member of the commission upon call of the chairman or of any two members of the commission, at such time and at such place within the district as such notice may specify, or at such other time and place with or without notice as all of the members of the commission may expressly approve.

1946, p. 350; Michie Suppl. 1946, § 1560iii4.

§ 21-241. Quorum.

Four members of the commission shall constitute a quorum, and the vote of four members of the commission shall be necessary to take any action.

1946, p. 351; Michie Suppl. 1946, § 1560iii4.

§ 21-242. Suspension or removal of members.

Members of the commission may be suspended or removed by the State Health Commissioner at his pleasure.

1946, p. 352; Michie Suppl. 1946, § 1560iii4.

§ 21-243. Oath and bond of members.

Each member of the commission shall, before entering upon the discharge of his duties under this chapter, take and subscribe the oath of office required by Article II, Section 7 of the Constitution of Virginia, and give bond payable to the Commonwealth of Virginia in form approved by the Attorney General, in such penalty as shall be fixed from time to time by the State Health Commissioner, with some surety or guaranty company duly authorized to do business in Virginia and approved by the State Health Commissioner, as security, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be paid by the commission and the bonds shall be filed with and preserved by the Comptroller.

1946, p. 351; Michie Suppl. 1946, § 1560iii4; 1971, Ex. Sess., c. 1.

§ 21-244. Repealed.

Repealed by Acts 1970, c. 463.

§ 21-245. Manner of letting contracts.

All contracts, except in cases of emergency, over \$5,000 that the commission may let for construction or materials shall be let after public advertising. The commission shall advertise for bids for the work or materials at least ten days prior to the letting of any contracts therefor. The advertisement shall state the place where bidders may examine the plans and specifications and the time and place where bids for the work or materials will be opened. Each bidder shall accompany his bid with a certified check payable to the commission, for a reasonable sum to be fixed by the commission, as a guarantee that if the contract is awarded to him, he will enter into a contract with the commission for doing the work or furnishing the materials. The contract shall be let to the lowest responsible bidder, and the successful

bidder shall give bond or other security for the faithful performance of the contract, in such form and amount as the chairman may require. The commission is authorized to reject any and all bids. In the event that all bids are rejected, the commission shall advertise for new bids as in the first instance. All such bids and contracts shall be public records. The commission is authorized, in its discretion, to do any and all such work by force account.

1946, p. 351; Michie Suppl. 1946, § 1560iii4.

§ 21-246. How power of eminent domain exercised.

The powers of condemnation or eminent domain conferred on the commission by this chapter shall be exercised by the commission under the same conditions and provisions and in accordance with the same procedure as in the case of the exercise of similar powers by the boards of supervisors of counties or the councils of cities or towns so far as they can be applied to the same.

1946, p. 351; Michie Suppl. 1946, § 1560iii4.

§ 21-247. County, city or town not liable for act of commission.

No pecuniary liability of any kind shall be imposed upon any county, city or town constituting any part of any district because of any act, agreement, contract, tort, malfeasance, misfeasance, or non-feasance, by or on the part of the commission of such district, or any member of such commission, or its agents, servants and employees, except as otherwise provided in this chapter with reference to contracts and agreements between the commission and any such county, city or town.

1946, p. 352; Michie Suppl. 1946, § 1560iii4.

§ 21-248. Enumeration of powers of commission.

Every commission shall have the following powers:

1. To adopt and have a common seal and to alter the same at pleasure;
2. To sue and to be sued;
3. In the name of the commission and on its behalf, to acquire, hold and dispose of its fees, rents and charges and other revenues;
4. In the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, to acquire, hold, and dispose of other personal property for the purposes of the commission;
5. In the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, to acquire by purchase, gift, condemnation or otherwise, real property or rights or easements therein, necessary or convenient for the purposes of the commission, subject to mortgages, deeds of trust, or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the commission; provided that the right of condemnation granted herein shall be subject to the same provisions as are provided in [§ 25.1-102](#) concerning the condemnation of any property belonging to a corporation possessing the power of eminent domain by another public service corporation;

6. To borrow money for the purposes of the commission and to issue therefor its bonds, and to provide for and secure the payment of its bonds and the rights of the holders thereof, and to fund or refund its bonds by the issuance of bonds hereunder;
7. To accept gifts or grants or real or personal property, money, material, labor or supplies for the purposes of the commission and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants;
8. To enter on any lands, waters and premises for purpose of making surveys, borings, soundings and examinations for the purposes of the commission;
9. To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of its facilities and properties, and to amend the same;
10. To do and perform any acts and things authorized by this chapter under, through or by means of its own officers, agents and employees, or by contracts with any person; and
11. To execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the commission or to carry out the powers expressly given in this chapter.

1946, p. 352; Michie Suppl. 1946, § 1560iii5; 2003, c. [940](#).

§ 21-249. Relief from pollution to be purpose of commission.

The purposes of every commission shall be the relief of the waters of the district from pollution and the consequent improvement of conditions affecting the public health.

1946, p. 353; Michie Suppl. 1946, § 1560iii6.

§ 21-250. Acquisition and use of pipes, sewers, plants, stations, etc.

Every commission is authorized and directed to acquire, in the name of the commission but for the cities, counties and towns in whole or in part embraced within the district, by purchase, gift, condemnation or otherwise, and, notwithstanding the provisions of any charter, ordinance or resolution of any county, city or town to the contrary, to construct, maintain, operate and use such trunk, intercepting and outlet sewers, conduits, pipelines, pumping and ventilating stations, treatment plants or works at such places, and such other plants, structures, boats and conveyances, as in the judgment of the commission will provide an effective and satisfactory method for promoting the purposes of the commission.

1946, p. 353; Michie Suppl. 1946, § 1560iii6.

§ 21-251. Collection from public sewage systems.

The commission is authorized and directed when in the judgment of the commission its sewage disposal system, or part thereof, will permit, to collect from any and all public sewage systems within the district all sewage and treat and dispose of the same in such manner as to promote the purposes of the commission.

1946, p. 353; Michie Suppl. 1946, § 1560iii6.

§ 21-252. Use of public sewer and disposal facilities.

In order to carry out and effectuate the purposes of the commission, every commission is authorized to enter upon and use and connect with any existing public drains, sewers, conduits, pipelines, pumping and ventilating stations and treatment plants or works or any other public property of a similar nature within the district, deemed proper by the commission in the exercise of the powers and performance of the duties set forth in this chapter, and, if deemed necessary by the commission, close off and seal outlets and outfalls therefrom. The commission shall not, however, take possession of any such treatment plant unless it acquires the same by purchase, condemnation or otherwise.

1946, p. 360; Michie Suppl. 1946, § 1560iii12.

§ 21-253. Use of public places.

In order to carry out and effectuate the purposes of the commission, every commission is authorized to construct and operate its trunk, intercepting and outlet sewers, conduits and pipelines, along, over, under and in any streets, alleys, highways and other public places within the district. In so constructing its facilities, it shall see that the public use of such streets, alleys, highways and other public places is not unnecessarily interrupted or interfered with and that such streets, alleys, highways and other public places are restored to their former usefulness and condition within a reasonable time; to this end the commission shall cooperate with the Commonwealth Transportation Board and the appropriate officers of the respective counties, cities and towns having an interest in such matters.

1946, p. 360; Michie Suppl. 1946, § 1560iii13.

§ 21-254. Special contracts for disposal of sewage and other wastes.

(a) Every commission is authorized to enter into contracts with the United States of America, or with any department, institution or agency thereof, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of sewage or industrial wastes of or originating in or on any reservation, property, institution, building or structure within the district owned or under the control of the United States of America, or any department, institution or agency thereof, by means of the sewage disposal system or such other facilities as the commission may determine to provide for such purpose, or in such other manner as such contract may provide.

(b) Every commission is authorized to provide, contract, operate and maintain facilities for the treatment and disposal of industrial wastes originating in the district, and to enter into contracts with any person, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of any such industrial wastes.

(c) Every commission is authorized to enter into contracts with any person owning or operating any sewer system within the district or engaged in treatment or disposing of sewage or industrial wastes originating in the district, on such terms and conditions as the commission may approve, providing for or relating to the treatment and disposal of any sewage or industrial wastes collected in such sewer system or by such person.

(d) Every commission is authorized to enter into contracts with the owner of property adjoining its district on such terms and conditions as such commission may approve, providing for or relating to the treatment and disposal of sewage or industrial wastes of or originating in or on such adjoining property by means of the sewage disposal system or such other facilities as such commission may determine to provide for such purpose, or in such other manner as such contract may provide.

1946, p. 361; Michie Suppl. 1946, § 1560iii18; 1968, c. 194.

§ 21-255. Approval of disposal methods.

The method proposed to be used by a commission for treating and disposing of sewage and industrial wastes so as to prevent the pollution of the waters of the district, and any substantial change in such methods, shall, before being finally adopted or used by the commission, be approved by the State Health Commissioner as effective and satisfactory for the purpose intended.

1946, p. 360; Michie Suppl. 1946, § 1560iii14.

§ 21-256. Prohibition of sale or encumbrance of system.

Neither the commission nor any of the counties, cities or towns in whole or in part embraced within the district shall have power to mortgage, pledge, encumber or otherwise dispose of any part of the sewage disposal system of a commission, except such part or parts thereof as may be no longer necessary for the purposes of the commission, whether the same shall originally have been acquired by such commission or by one of the counties, cities or towns. The provisions of this section shall be deemed to constitute a contract with the holders of bonds of the commission. The sewage disposal system of a commission shall be exempt from any and all liability which may be incurred by, or imposed upon, the commission, or any county, city or town, which, in whole or in part, constitutes any part of any district.

1946, p. 360; Michie Suppl. 1946, § 1560iii15.

§ 21-257. Agents and employees of commission.

The commission is authorized to appoint a general manager for the district, prescribe his duties and fix his salary, such general manager to be responsible to the commission and to serve at its pleasure. The general manager shall appoint all other agents and employees of the commission, except as otherwise provided in § [21-238](#), dismiss them, fix their salaries or remuneration within the limits authorized by the commission, assign their positions and titles, define their respective powers and duties, and require them, or any of them, to give bond payable to the Commonwealth of Virginia in such penalty as shall be fixed by the commission, conditioned upon the faithful discharge of their duties.

1946, p. 359; Michie Suppl. 1946, § 1560iii11.

§ 21-258. Funds of commission.

(a) All moneys of a commission, whether derived from the sale of bonds or other obligations or from the collection of fees, rents and other charges by the commission or from any contract of the commission or from any other source shall be collected, received, held, secured and disbursed in accordance with any contract of the commission relating thereto. The following provisions of this section

shall be applicable to any such moneys only if and to the extent that they are consistent with such contract or contracts of the commission.

(b) Such moneys shall not be required to be paid into the state treasury or into the treasury or to any officer of any county, city or town.

(c) All such moneys shall be deposited by the commission in a separate bank account or accounts, appropriately designated, in such banks or trust companies as may be designated by the commission.

(d) All deposits of such moneys shall be secured by bonds or other direct unlimited obligations of the United States or of the Commonwealth of Virginia or of any county, city or town of the Commonwealth or of the commission of a market value at least equal at all times to the amount of such deposits, and all banks and trust companies are authorized to give such security for such deposits.

1946, p. 360; Michie Suppl. 1946, § 1560iii16.

§ 21-259. Accounts and records.

Every commission shall keep and preserve complete and accurate accounts and records of all moneys received and disbursed by it and of all of its business and operations and of all property and funds owned or managed by it or under its control, and shall prepare and transmit to the State Health Commissioner and to the governing body of each city, county and town which is in whole or in part embraced within the district, annually and at such other times as the State Health Commissioner shall require, complete and accurate reports as to the state and content of such accounts and records, together with such information with respect thereto as the State Health Commissioner may require.

1946, p. 361; Michie Suppl. 1946, § 1560iii17.

Article 4 - FEES, RENTS AND CHARGES

§ 21-260. Authority to collect fees, rents or other charges.

Every commission is hereby authorized and empowered to charge and collect fees, rents, or other charges for the use and services of the sewage disposal system. Such fees, rents and charges may be charged to and collected from any person contracting for the same or from the owner or lessee or tenant, or some or all of them, who use or occupy any real estate which directly or indirectly is or has been connected with the sewage disposal system, or from or on which originates or has originated sewage or industrial wastes, or either, which directly or indirectly have entered or will enter the sewage disposal system, and the owner or lessee or tenant of any such real estate shall pay such fees, rents and charges to the commission at the time when, and place where, such fees, rents and charges are due and payable.

1946, p. 353; Michie Suppl. 1946, § 1560iii7.

§ 21-261. Uniformity and basis.

Such fees, rents and charges being in the nature of use or service charges, shall as nearly as the commission shall deem practicable and equitable, be uniform throughout the district 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 allowance 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 to or on 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.

1946, p. 353; Michie Suppl. 1946, § 1560iii7.

§ 21-262. Schedule.

The commission shall prescribe and from time to time when necessary revise a schedule of such fees, rents and charges which shall comply with the terms of any contract of the commission with the holders of bonds of the commission made pursuant to §§ [21-269](#) to [21-275](#) and in any event shall be such that the revenues of the commission will at all times be adequate to pay all expenses of operation and maintenance of the sewage disposal system of the commission, necessary to preserve the system and to assure its operation as a going concern, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds or other indebtedness of the commission and to maintain adequate reserves or sinking funds therefor. The schedule shall be so prescribed and from time to time revised by the commission after public hearing which shall be held by the commission upon such public notice as the commission may determine to be reasonable.

1946, p. 354; Michie Suppl. 1946, § 1560iii7.

§ 21-263. Time and place of payment.

The commission shall likewise fix and determine the time or times when and the place or places where such fees, rents and charges shall be due and payable and may require that such fees, rents and charges shall be paid in advance for periods of not more than six months.

A copy of the schedules of all fees, rents and charges in effect shall at all times be kept on file at the principal office of the commission, and such schedules shall at all reasonable times be open to public inspection.

1946, p. 354; Michie Suppl. 1946, § 1560iii7.

§ 21-264. Effect of failure to pay.

In the event that the fees, rents or charges charged by the commission for the use and services of the sewage disposal system by or in connection with any real estate shall not be paid as and when due, then and at that time interest shall begin to accrue thereon at the rate of one per centum 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 it shall be the duty of each county, city, town and other public corporation, board or body supplying water to or selling water for use on, such real estate, within five days after receipt of

notice of such facts from the commission, to cease supplying water to, and selling water for use on, such real estate. If such county, city, town or other public corporation, board or body shall not within such time cease supplying water to, and selling water for use on, such real estate, the commission may shut off the supply of water to such real estate and for such purpose, may enter on any lands, waters and premises of such county, city, town or other public corporation, board or body, or of any person. The water supply to or for any person, or for use on real estate of any person, 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 and the health of others in such county, city or town.

1946, p. 354; Michie Suppl. 1946, § 1560iii7.

§ 21-265. Register.

The commission shall keep and preserve a complete register, or registers, open to public inspection, of all fees, rents and other charges which have been charged by the commission to the owners or less-ees or tenants of any real estate for the use and services of the sewage disposal system and have become due and payable and have not been paid. Such register or registers shall be kept in such place or places as the commission shall determine.

1946, p. 355; Michie Suppl. 1946, § 1560iii7.

§ 21-266. Appeal from action fixing fees, etc.

From any action of the sanitation commission in prescribing fees, rents and charges, or either of them, pursuant to the provisions of this chapter, an appeal may be taken upon the petition of any county, city or town constituting a part of the district, or upon petition of any fifty persons, resident or doing business in the district, to the State Corporation Commission. At least sixty days prior to filing such petition with the State Corporation Commission, such county, city or town or interested parties shall notify the sanitation commission of such intended petition and of the fees, rents and charges complained of, in order that the sanitation commission may be afforded an opportunity to make such changes in such fees, rents and charges as it shall deem proper. After such petition shall have been filed with the State Corporation Commission and after such county, city or town or other petitioners shall have, if required by the State Corporation Commission, executed and filed with the State Corporation Commission a bond payable to the Commonwealth and sufficient in amount, but not in excess of \$500, and security to insure the prompt payment of all costs which may be assessed against such county, city or town or other petitioners and after such county, city or town or other petitioners shall have caused to be published in at least one newspaper, designated by the State Corporation Commission and of general circulation within the district, such notice of such appeal as shall be prescribed by the State Corporation Commission, the State Corporation Commission is authorized to make such examinations and studies, to hold such hearings as may be required, to issue subpoenas requiring the attendance of

witnesses and the production of records, memoranda, papers and other documents before the State Corporation Commission or any officer or agent thereof, to administer oaths and to take testimony thereunder, and to fix in accordance with the provisions of this chapter applicable to the sanitation commission, subject to the right of further appeal by the sanitation commission or the interested parties to the Supreme Court, such fees, rents and charges. In each such proceeding the State Corporation Commission shall ascertain the costs incurred by it, including in such costs actual expenses incurred and a fair apportionment of overhead expenses, and shall assess the same against either the petitioner or petitioners, or the sanitation commission, or shall apportion the costs between the petitioner or petitioners and the sanitation commission, according to principles applicable in courts of equity.

1946, p. 355; Michie Suppl. 1946, § 1560iii7.

§ 21-267. Actions for collection.

The commission shall have the right to recover the amount of any fees, rents or other charges charged by the commission to the owner or lessee or tenant or contracting party, as set forth in § [21-260](#), for the use and services of the sewage disposal system by or in connection with such real estate and of the interest which may accrue thereon, by any action, suit or proceeding permitted by law or in equity.

1946, p. 362; Michie Suppl. 1946, § 1560iii19.

§ 21-268. Contracts for collection.

Any commission, and any county, city or town in whole or in part embraced within the district, are authorized to enter into a contract or contracts on such terms and conditions as such contract or contracts may contain, providing for the collection by such county, city or town and payment over to the commission of the fees, rents or other charges charged or to be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town, or providing for the payment to the commission by such county, city or town of a sum or sums of money in lieu of all or part of the fees, rents and other charges which would otherwise be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town. Such county, city or town is vested with powers to do everything necessary or proper to carry out and perform every such contract, including the same powers with respect to fees, rents and other charges as are conferred by this chapter upon a commission, and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations, except that no tax shall be levied on real estate for such obligation. The commission is authorized to reduce ratably in accordance with such contract the fees, rents and other charges which would otherwise be charged by the commission to the owners or lessees or tenants of real estate within such county, city or town, but nothing in this section or any such contract shall be construed to prevent the commission from charging to and collecting from such owners or lessees or tenants of such real estate, in the same manner as provided for such fees, rents and other charges, any deficiency in any payment agreed to be made by such county, city or town.

1946, p. 362; Michie Suppl. 1946, § 1560iii20.

Article 5 - BONDS

§ 21-269. Outstanding bonds not to exceed ten million dollars.

Bonds of a commission shall at no time be outstanding in a principal amount in excess of \$10 million.

1946, p. 356; Michie Suppl. 1946, § 1560iii8.

§ 21-270. Election prior to issuance.

No bonds shall be issued by a commission, except to fund or refund bonds theretofore issued and thus to redeem a previous liability, unless the qualified voters of the district shall approve by a majority vote of the qualified voters voting in an election the issuance of the bonds. Whenever the commission shall determine by resolution that it is advisable to issue bonds for the purposes of the commission, such resolution shall be certified to the circuit court of a county or corporation court of a city in whole or in part embraced within the district and the court shall thereupon make an order requiring the opening of a poll and the taking of the sense of the qualified voters of the district in accordance with [§ 21-226](#) on the question of issuing the bonds in not exceeding the amount stated in such resolution. The question so submitted shall be "Do you favor the issuance of not exceeding \$_____ bonds of the _____ sanitation district commission (inserting the amount of bonds stated in such resolution and the name of the commission)?" If upon the certification of the result of the election made by the Secretary of the Commonwealth to the court, it shall appear that a majority of the qualified voters of the district voting at the election shall have voted "yes" and in favor of the issuance of the bonds, the court shall make and enter of record an order stating such result and thereupon the commission shall have power in accordance with this article to issue bonds in not exceeding the amount stated in such resolution and, in anticipation of the issuance of such bonds, to borrow money on temporary loan and issue temporary bonds therefor.

1946, p. 356; Michie Suppl. 1946, § 1560iii8.

§ 21-271. Other matters determined by resolution.

All other matters relating to the issuing of such bonds, and all matters relating to the contracting of debt, borrowing of money and issuing of other bonds and obligations shall be determined by resolution of the commission.

1946, p. 356; Michie Suppl. 1946, § 1560iii8.

§ 21-272. Form and contents.

Bonds shall be authorized by resolution of the commission, and shall be issued from time to time in one or more series, be in such form, bear such date or dates, mature at such time or times not more than forty years from the date of issuance thereof, bear interest at such rate or rates not exceeding six per centum per annum, be in such denominations, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to acceleration of maturity on such contingencies and terms, and be subject to such terms of redemption with or without premium, as such resolution shall provide.

1946, p. 356; Michie Suppl. 1946, § 1560iii8.

§ 21-273. How sold.

Such bonds may be sold at public or private sale for such price or prices as the commission shall determine, provided the interest cost to maturity of the money received from any such bonds simultaneously sold shall not exceed an average of six per centum per annum.

1946, p. 356; Michie Suppl. 1946, § 1560iii8.

§ 21-274. Resolutions may be part of contract with bondholders.

Any resolutions of the commission authorizing any bonds may contain provisions, which shall be a part of the contract with the several holders of such bonds and accordingly subject to amendment by mutual agreement of the commission and the holders of all of such bonds, as to:

- (1) Pledging, setting aside, depositing or trusteeing any or all revenues or funds of the commission to secure the payment of the principal of or interest on such bonds or other bonds of the commission or the payment of expenses of construction, operation or maintenance of the sewage disposal system, including provisions giving priority, notwithstanding any provision or rule of law otherwise to the contrary, to the obligation to perform such contractual provisions to secure payment of such principal or interest over any or all other obligations and liabilities of the commission;
- (2) Payment of the principal of or interest on such bonds or other bonds of the commission, and the sources and methods thereof;
- (3) The fees, rents and other charges to be established and collected by the commission, the collection and enforcement of the same, and the use, disposition and application of the amounts collected;
- (4) The setting aside of reserves and sinking funds and the source, regulation, application and disposition thereof;
- (5) The determination or definition of the revenues and income of the commission and of the expenses of operation and maintenance of the sewage disposal system;
- (6) The use, regulation, operation, maintenance, insurance and disposition of the sewage disposal facilities and other property of the commission;
- (7) Restrictions on the power of the commission to limit and regulate the use of the sewage disposal system, facilities and other property of the commission;
- (8) Limitations on the purposes to which the proceeds of such bonds or other bonds of the commission may be applied;
- (9) The construction and completion of all or any part of the sewage disposal system or any facilities of the commission;
- (10) Limitations on the issuance of additional bonds or on the indebtedness of the commission;

(11) The procedure, if any, by which the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced;

(12) Payment of costs or expenses incident to the enforcement of such bonds or of the provisions of such resolution or of any contract with the holders of such bonds, in accordance with this article; or

(13) Any other matter which the commission shall determine to be necessary in order to carry out and effectuate the purposes of the commission.

1946, p. 357; Michie Suppl. 1946, § 1560iii8.

§ 21-275. Negotiability.

Any provisions of law to the contrary notwithstanding, any bonds or temporary bonds issued pursuant to the authority of this chapter shall be deemed to be fully negotiable within the meaning and for all the purposes of Title 8.3A.

1946, p. 357; Michie Suppl. 1946, § 1560iii8.

§ 21-276. Liability of Commonwealth, county, city or town on bonds.

The bonds, notes and other obligations, and any indebtedness, of a commission shall not be in any way a debt or liability of the Commonwealth, or of any county, city or town in whole or in part embraced within the district and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth or of any such county, city or town, either legal, moral or otherwise and nothing in this chapter contained shall be construed to authorize a commission or district to incur any indebtedness on behalf of or in any way to obligate the Commonwealth or any county, city or town, in whole or in part embraced within the district.

1946, p. 364; Michie Suppl. 1946, § 1560iii23.

§ 21-277. No personal liability on bonds.

Neither the members of the commission, nor any person executing any bonds or temporary bonds shall be liable personally on the bonds or temporary bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

1946, p. 358; Michie Suppl. 1946, § 1560iii8.

§ 21-278. Purchase of bonds by commission.

The commission is authorized, out of any funds available therefor, to purchase any bonds of the commission.

1946, p. 358; Michie Suppl. 1946, § 1560iii8.

§ 21-279. Bonds constitute legal investments.

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance com-

panies and associations, all savings banks and savings institutions, including savings and loan associations, in the Commonwealth, may properly and legally invest funds in their control.

1946, p. 364; Michie Suppl. 1946, § 1560iii24.

§ 21-280. Special remedies of bondholders.

(a) The provisions of this section shall be applicable to a series of bonds of a commission only if the resolution or resolutions authorizing such series of bonds shall provide in substance that the holders of the bonds of such series shall be entitled to all the benefits, and be subject to the provisions of this section.

(b) In the event that the commission shall default in the payment of the principal of or interest on any bonds of such series after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the commission shall fail or refuse to comply with the provisions of this chapter relating to or affecting the payment or security of such bonds or the collection of fees, rents or charges, or other revenues therefor, or shall fail or refuse to carry out and perform the terms of any contract with the holders of any of such bonds, and such failure or refusal shall continue for a period of thirty days after written notice of its existence and nature to the commission the holders of twenty-five per centum in aggregate principal amount of such bonds then outstanding, by instrument or instruments filed with the Governor of the Commonwealth of Virginia and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of all bonds of such series for the purposes herein provided.

(c) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of the bonds of such series then outstanding shall, in his or its name:

(1) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds, including the right to require the commission to collect fees, rents and other charges adequate to carry out any agreement as to, or pledge of, such fees, rents or other charges, or the revenues therefrom, and to require the commission to carry out and perform the terms of any contract with the holders of such bonds or its duties under this chapter;

(2) Bring suit upon all or any part of such bonds;

(3) By action or suit in equity, require the commission to account as if it were the trustee of an express trust for the holders of such bonds;

(4) By action or suit in equity, enjoin any act or thing which may be unlawful or in violation of the rights of the holders of such bonds;

(5) Declare all such bonds due and payable, whether or not in advance of maturity, and, if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences, provided that before declaring such bonds due and payable, the trustee shall first give thirty days' notice in writing to the commission.

(d) If the resolution or resolutions authorizing such series of bonds shall contain the provision authorized by subsection (a) of this section and shall further provide in substance that any trustee appointed pursuant to this section shall have the powers provided by subsection (c) of this section, then such trustee, whether or not all of the bonds of such series shall have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may enter upon and take possession of any facilities or property operated by the commission any of the revenues from the operation of which are pledged for the security of such bonds, and operate and maintain the same and fix, charge, collect and receive all fees, rents and other charges and other revenues thereafter arising from such operation in the same manner as the commission itself might do, and shall deposit all moneys collected in a separate account and apply the same in accordance with the duties and contracts of the commission in such manner as the court appointing such receiver shall direct.

(e) In any suit, action or proceeding by such trustee, the fees, counsel fees and expenses of such trustee and of the receiver, if any, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court shall be a first charge upon any fees, rents and other charges, and revenues of the commission pledged for the payment or security of such bonds.

(f) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the holders of the bonds of such series in the enforcement and protection of their rights.

1946, p. 358; Michie Suppl. 1946, § 1560iii9.

§ 21-280.1. Bonds mutilated, lost or destroyed.

Should any bond issued by the commission become mutilated or be lost or destroyed the commission may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of, such mutilated bond and its interest coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expenses and charges in connection therewith and (2) in the case of a lost or destroyed bond, has filed with the chairman of the commission satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the commission.

1962, c. 204.

§ 21-281. Inviolability of rights and remedies.

The Commonwealth does pledge to and agree with the holders of any bonds or other obligations issued by any commission pursuant to this chapter that the Commonwealth will not limit or alter the rights hereby vested in such commission to charge and collect such fees, rents and charges and other revenues as may be convenient or necessary in order to comply with the terms and provisions of any contract or contracts made by such commission with such holders, or in any way impair the rights and remedies of such holders, until the bonds and other obligations, together with interest thereon, with

interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged.

1946, p. 365; Michie Suppl. 1946, § 1560iii27.

§ 21-282. Interim certificates.

Pending the preparation, execution and delivery of definitive bonds of the commission to the purchaser of such bonds, interim certificates or other obligations may be issued by the commission to the purchaser. Such interim certificates or obligations shall be in such form and contain such terms, conditions and provisions as the commission issuing the same may determine.

1946, p. 359; Michie Suppl. 1946, § 1560iii10.

Article 6 - POWERS AND DUTIES OF COUNTIES, CITIES AND TOWNS

§ 21-283. Plans, maps, etc., to be available to commission.

Each county, city or town in whole or in part embraced within a district shall, at the request of the commission, make available to the commission or the agents or employees thereof, any or all maps, plans, specifications, records, books, accounts or other data or things deemed necessary by the commission in the exercise of its powers and duties under this chapter.

1946, p. 362; Michie Suppl. 1946, § 1560iii21.

§ 21-284. Payments by county, city or town.

Each county, city, town or other public body shall promptly pay to any commission all fees, rents and charges which the commission may charge to it as owner or lessee or tenant of real estate in accordance with § [21-260](#) and shall provide for the payment thereof in the same manner as other obligations of such county, city, town or public body.

1946, p. 362; Michie Suppl. 1946, § 1560iii21.

§ 21-285. Contracts with counties, cities and towns outside of district.

Any commission, and any county, city or town in whole or in part outside of the district, is authorized to enter into a contract or contracts on such terms and conditions as such contract may contain, providing for or relating to the treatment and disposal of sewage or industrial wastes originating in such county, city or town, by means of the sewage disposal system or such other facilities as the commission may determine to provide for such purpose, and such county, city or town is authorized to do everything necessary or proper to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations.

In the event any such contract is entered into in accordance with the provisions of this section, provision shall be made therein whereby the cost of rendering the services herein referred to, to such county, city or town, will be borne by such county, city or town.

1946, p. 362; Michie Suppl. 1946, § 1560iii21.

§ 21-286. Additional powers conferred on counties, cities and towns.

The powers conferred by this chapter on counties, cities and towns are in addition and supplemental to the powers conferred by any other law, and may be exercised by resolution of the governing bodies thereof without regard to the terms, conditions, requirements, restrictions or other provisions contained in any other law, general or special, except the State Water Control Law passed at the 1946 regular session of the General Assembly, or in any charter, except that where fees, rents and charges are fixed by a city or town, that power shall be exercised by ordinance.

1946, p. 363; Michie Suppl. 1946, § 1560iii21.

Article 7 - PROHIBITIONS AND PENALTIES

§ 21-287. Discharge into waters of matter causing pollution.

No county, city, town or other public body, or person shall discharge, or suffer to be discharged, directly or indirectly into any waters of the district any sewage, industrial wastes or other refuse which may or will cause or contribute to pollution of any waters of the district, provided, that this provision shall be applicable only to such part or parts of the waters of a district as shall be bounded and described in a notice, published in a newspaper or newspapers having, in the aggregate, general circulation in all of the counties and cities within which or bordering upon which such part or parts of the waters of the district are located, to the effect that the commission has provided facilities reasonably sufficient in its opinion for the disposal of sewage, which by discharge from public sewer systems might cause or contribute to pollution of the bounded and described part or parts of such waters, and that pollution of the same is forbidden by law. Such a notice shall constitute prima facie evidence of the existence of facilities sufficient for the disposal of such sewage. The provisions of this section shall not prohibit the disposal of sewage and industrial wastes in the manner in which the same is now being disposed of, or in any other reasonable manner, by any county, city or town, no part of which constitutes a part of any district, or by any person in any such county, city or town, no part of which constitutes a part of any district.

1946, p. 363; Michie Suppl. 1946, § 1560iii22.

§ 21-288. Discharge of matter injurious to system.

No county, city, town or other public body, or person shall discharge, or suffer to be discharged, directly or indirectly, into the sewage disposal system or any other facilities of or provided by a commission, any matter or thing which is or may be injurious or deleterious to such sewage disposal system or other facilities.

1946, p. 363; Michie Suppl. 1946, § 1560iii22.

§ 21-289. Jurisdiction.

Jurisdiction to enforce the provisions of the two preceding sections and to grant any remedy or relief authorized by this article shall be in the circuit court of any county and in the corporation court of any city in whole or in part embraced within the district, or within which are located any waters of the dis-

trict. The remedies, relief and jurisdiction authorized by this section shall be concurrent and cumulative.

1946, p. 364; Michie Suppl. 1946, § 1560iii22.

§ 21-290. Punishment of violations.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished accordingly.

1946, p. 365; Michie Suppl. 1946, § 1560iii28.

Chapter 5 - HAMPTON ROADS SANITATION DISTRICT

§ 21-291. Repealed.

Repealed by Acts 1960, c. 66.

§ 21-291.1. Repealed.

Repealed by Acts 1987, c. 57.

§ 21-291.2. Creation of District.

Chapter 66 of the Acts of 1960 as amended by Acts 1962, c. 584, Acts 1964, c. 520, Acts 1974, c. 112, Acts 1976, c. 637, Acts 1977, c. 271, Acts 1987, c. 30, Acts 1989, c. 350, Acts 1990, c. 153, Acts 1998, c. [210](#), Acts 2004, c. [120](#), Acts 2008, c. [574](#), Acts 2012, c. [724](#), Acts 2017, c. [218](#), and Acts 2021, Sp. Sess. I, c. [428](#), relating to the creation of the Hampton Roads Sanitation District, is incorporated in this Code by this reference.

Chapter 6 - DRAINAGE PROJECTS

§ 21-292. Jurisdiction of circuit courts to establish projects.

The circuit courts of the several counties and cities of this Commonwealth shall have jurisdiction, power and authority to establish a levee, or drainage project or projects, in their several counties and cities and in projects as hereinafter set out, and to locate and establish levees, drains or canals and cause to be constructed, straightened, widened or deepened any land drainage, ditch, drain or water-course, and to build levees or embankments and erect tide gates and pumping plants for the purpose of draining and reclaiming wet, swamp or overflowed lands.

Code 1919, § 1737; 1926, p. 604; 1954, c. 642; 1966, c. 203.

§ 21-292.1. "District" means "project."

Whenever the word district or districts hereinafter appears in this chapter, it shall be construed to mean project or projects.

1954, c. 642.

§ 21-293. Drainage considered essential.

It is hereby declared that the drainage of the surface water from wet agricultural lands is essential for the successful cultivation of such lands and the prosperity of the community, and the reclamation of

overflowed swamps and tidal marshes shall be considered a public benefit and conducive to the public health, convenience, utility and welfare.

Code 1919, § 1737; 1926, p. 604.

§ 21-294. Establishment considered public improvement.

It is declared that the preliminary work, establishment and completion of a drainage district shall be classified as a public improvement of an integral part of the county in which such district or part thereof be located, and it shall be the duty of the governing body of each county to cooperate in the promotion of the development of each of such parts of their county, including the construction of public roads, public bridges and the drainage canals of preliminary or finally established drainage districts, and the indirect benefits received by the development of each of the parts of a county are indeed substantial benefits received also by the county, and the value of the indirect benefits received by the county is full compensation for the performance of the duty assigned to the governing body of any county by this chapter, and that the preliminary payment of costs and expenses of surveys of drainage districts, and the assumption or responsibility for necessary bond issues required for established drainage districts, public bridges and public roads shall be construed as revenue producing investments for the county, from which increased revenues will be derived from increased assessments by reason of the improvements and the preliminary payment of the costs and expenses and the assumption of the responsibility by the governing body of a county, shall be considered the performance of a duty towards the several integral parts of their county, for which the county receives full potential value.

Code 1919, § 1737; 1926, p. 605.

§ 21-295. Form of petition; bond; summons of landowners not on petition.

Whenever a petition, signed by fifty-one percent or more of the owners of land who own fifty-one percent or more of the land, within a proposed drainage project, according to the county-land book or books or to the latest assessment lists of the county or counties in which such project is located, or by the heirs, guardians, conservators or executors of estates or by those having color of title, or by those in adverse possession, or by the officers of corporations, whose lands will be affected by or assessed for the expense of the proposed improvements, shall be filed in the office of the clerk of the circuit court of any county in which a part of the lands are located, setting forth that any specific body or district of land in the county or adjoining counties, described in such a way as to convey an intelligent idea as to the location of such land, is subject to overflow, or too wet for cultivation, or in need of drainage, and the public benefit or utility or the public health, convenience or welfare, will be promoted by draining, ditching or leveeing the same, or by changing or improving the natural watercourse or courses; and setting forth therein, as far as practicable, the starting point, route and terminus and lateral tile or open branches, of the proposed improvement, and there is filed therewith a bond for the amount or product of ten dollars multiplied by the square root of the estimated number of acres within the bounds of the proposed project, signed by two or more sureties or by some lawful and authorized surety company, to be approved by the clerk, and conditioned for the payment of all costs and expenses incurred in the proceedings in case the court does not grant the prayer of the petition, the clerk shall issue a

summons, to be served on all the defendant landowners, including any railway company, who have not joined in the petition and whose lands are affected or included in the proposed drainage district, to show cause, if any there be, why the lands in the proposed drainage project should not be drained or leveed.

Code 1919, § 1738; 1920, p. 608; 1924, p. 707; 1926, p. 605; 1954, c. 642; 1997, c. [801](#).

§ 21-296. Circulation of duplicate originals of petition.

For the convenience of the petitioners, duplicate originals of the same petition may be circulated and separately signed by the several petitioners without the others being present, which the court shall treat in all respects as if the signatures had been placed upon the same copy at the same time.

Code 1919, § 1738; 1924, p. 708; 1926, p. 606.

§ 21-297. Service and return of summons; appointment of board of viewers.

The summons may be served by publication as to any defendants who cannot be personally served, as provided by law. Such summons shall be returnable to the first day of any regular term of the circuit court of the county, during which term, or some succeeding term, the court, after determining the sufficiency of the petition, shall immediately enter of record three interested resident freeholders of the proposed project in which the lands are located who have been elected by a majority of the petitioners. Such persons appointed shall constitute a board of viewers who shall select and designate an engineer, or other person experienced with drainage, deemed qualified by the board of viewers to make a preliminary survey and report thereon. After the appointment of the board the question of the sufficiency of the petition may not be again raised, unless the boundary of the district be subsequently changed by the court.

Code 1919, § 1738; 1920, p. 608; 1924, p. 708; 1926, p. 606; 1954, c. 642.

§ 21-298. Repealed.

Repealed by Acts 1954, c. 642.

§ 21-299. Notice to viewers of appointment.

The clerk of the court thereupon shall mail a written notice to each member of the board of viewers so appointed, notifying him of his appointment, and requesting that the board proceed without delay to discharge its duties as such according to law.

Code 1919, § 1738; 1924, p. 708; 1926, p. 606.

§ 21-300. Filling vacancies on board.

If a vacancy occurs on the board of viewers for any reason a successor shall be chosen in accordance with the provisions of § [21-297](#).

Code 1919, § 1738; 1920, p. 608; 1924, p. 708; 1926, p. 606; 1954, c. 642.

§ 21-301. Compensation of viewers.

The compensation for the services of the board of viewers, together with their incidental expenses to be fixed as herein provided, shall be paid preliminarily by the county treasurer upon the certificate of

the circuit judge; the sum so paid shall be refunded, with interest at the rate of six per centum per annum when the drainage fund is subsequently provided for by the sale of bonds, or otherwise, or out of the bond given by the petitioners in case the district is not subsequently established.

Code 1919, § 1738; 1920, p. 608; 1924, p. 708; 1926, p. 606.

§ 21-302. Petition based on widening, deepening, etc., of natural streams.

If the majority of the landowners in any wet, swamp or overflowed lands petition the court for a drainage district based on the widening, deepening, cleaning or straightening of such natural streams only as the United States government or the state drainage authorities pronounce as essential for the drainage of such lands, and agree in the petition to a tax levy for such draining, spread equally over each acre, then the court shall entertain such petition and all proceedings shall be in accordance with the provisions of this chapter, except that the viewers shall not classify the lands as to the benefit derived. Furthermore, in any case where it is made to appear, after the natural stream has been widened, reopened, cleaned out or straightened, that the majority of the landowners of any district, formed under the provisions of this section, desire that such district be divided into subdistricts, the court may, in its discretion so order.

Code 1919, § 1738; 1920, p. 608; 1924, p. 708; 1926, p. 607.

§ 21-303. Withdrawal of persons signing petition.

If during the proceedings, before or after the filing of the petition, any of the petitioners withdraw from the petition so as to render the number of petitioners whose signatures remain upon the petition insufficient according to § [21-295](#), and sufficient additional signatures to the petition of the same or other landowners, whose lands will be affected, are not obtained before the next succeeding term, the court shall dismiss the petition at the cost and expense of those who withdraw from the petition, including an engineer's and an attorney's fee for counseling the petitioners, and shall apportion all of the costs and expenses theretofore accrued among those who withdrew at a flat rate per acre, according to the acreage owned by each within the bounds of the proposed drainage district, as indicated in the petition, or otherwise, and judgment shall be entered against those who withdrew and shall be docketed in the judgment docket of the court of the county in which the petition was filed by the clerk thereof if not paid within thirty days from the entry of the order. Ten days' notice, however, shall be given by the clerk to each person affected thereby, of such order of the court.

Code 1919, § 1738; 1926, p. 607.

§ 21-304. All landowners need not be listed in petition; amendments.

To render the practical application of this chapter possible in all drainage cases, it shall be sufficient for the petitioners to exercise due diligence to ascertain the names of all the landowners and those having title to land in the proposed district, and it shall not be necessary for the petitioners to list and include with the petition, filed with the clerk, the names of all the landowners in the proposed district; but after the filing thereof with the clerk, as the proceeding progresses, the petition may be amended as often as may be necessary to include the names of additional landowners when, and if others are

subsequently ascertained, so that the petition may finally show the names of all the landowners it is possible to ascertain in the proposed district. The names of landowners, if any, in the proposed district, which it was impossible to ascertain after the exercise of due diligence, as aforesaid, shall be classified as unknown owners, who may, at any time, become parties to the proceeding as provided for in § [21-309](#).

Code 1919, § 1738; 1926, p. 607.

§ 21-305. Tile system of drainage.

Whenever a supplementary petition signed by the owner or owners of any tract of land in the proposed district, be subsequently filed with the clerk of the court, requesting that tile be used to drain the tract, the clerk shall immediately notify the engineer of the district of such petition. The engineer shall thereupon design and lay out a system of tile drainage upon the tract, and the board of viewers appointed to classify the lands in the district, as hereinafter provided for, shall, in the schedule of classification, place a special assessment upon the tract and also classify the tract in a class which will result in the total assessment being equal to the cost of the tile drainage of the tract, in addition to the proportional part of the liability for other benefits derived from the drainage canals of the district.

The tile drainage system shall become part of the proposed drainage district, and shall be governed by all the provisions of this chapter, insofar as the same may be applicable.

Code 1919, § 1738; 1926, p. 608.

§ 21-306. Compensation of engineer, assistants and viewers.

The board of viewers of the project involved shall at the first meeting after the selection of a drainage engineer make provision for the compensation to be paid him, if any, and his necessary assistants and the members of the board of viewers together with their incidental expenses. The rate of pay to each member of the board of viewers shall not exceed five dollars per day.

When the lands proposed to be drained and created into a drainage district are located in two or more counties, the clerk of the circuit court of either county shall have and exercise the jurisdiction herein conferred, and the venue shall be in that county in which the petition is first filed.

Code 1919, § 1739; 1924, p. 707; 1926, p. 608; 1954, c. 642.

§ 21-307. Publication against unknown owners.

If, at the time of the filing of the petition, or at any time subsequent thereto, it shall be made to appear to the court, or the judge thereof in vacation, by affidavit or otherwise, that the owner or owners of the whole or any share of any tract or tracts of land affected or within the bounds of the proposed drainage district, whose names are unknown, and cannot, after due diligence, be ascertained by the petitioners, the court or the judge thereof, shall order a notice in the nature of a summons to be given to all such persons by publication of the petition, or of the substance thereof, and describing generally the tract or tracts of land as to which the owner or owners are unknown, with the order of the court or the judge thereof thereon, in some newspaper published in the county wherein the land is located or in any city within the geographical limits of the county. If no newspaper shall be published in the county or city,

then in some newspaper designated in the order of the court or the judge thereof, and a copy of such publication shall also be posted in at least three conspicuous places within the boundaries of the proposed district, and at the courthouse door of the county. Such publication in a newspaper shall be made once a week for four successive weeks.

Code 1919, § 1740; 1926, p. 608.

§ 21-308. Appointment of representative of unknown owner.

After the time of publication shall have expired, if no person claiming and asserting title to the tract or tracts of land and entitled to notice shall appear, the court or the judge thereof, in its or his discretion, may appoint some disinterested person to represent the unknown owner or owners of the lands, and thereupon the court shall assume jurisdiction of the tract or tracts of land, and shall adjudicate as to the lands to the same extent as if the owners were present and represented, and shall proceed against the land itself.

Code 1919, § 1740; 1926, p. 609.

§ 21-309. Subsequent appearance of unknown owners.

If at any time during the pendency of the drainage proceeding the owner or owners of the lands shall appear in person, they may be made parties defendant of their own motion and without the necessity of personal service, and shall thereafter be considered as parties to the proceeding, but they shall have no right to except to or appeal from any order or judgment theretofore rendered as to which the time for filing exceptions or notice shall have expired.

Code 1919, § 1740; 1926, p. 609.

§ 21-310. Guardian ad litem for infants and incapacitated adults.

These proceedings shall not be stayed because of infancy or incapacity; but the court in which the petition was filed shall appoint some discreet and competent attorney at law as guardian ad litem to any infant or incapacitated person who may own or be interested in any of the land affected by these proceedings, whether such persons have been served with process or not. If no such attorney is found willing to act, the court shall appoint some other discreet and proper person as guardian ad litem, but the person so appointed shall not be liable to costs. Every guardian ad litem shall faithfully represent the interest or estate of the infant or incapacitated person for whom he is appointed, and it shall be the duty of the court to see that the estate of such defendant is so represented and protected. Wherever the court is of opinion that the interests of any infant or incapacitated person require, it shall remove any guardian ad litem and appoint another in his stead.

Code 1919, § 1741; 1997, c. [801](#).

§ 21-311. Recordation of petition and orders.

A copy of the petition, duly certified by the clerk of the court in which the same was originally filed, shall be recorded in the deed book in the clerk's office, of each county in which any of the lands affected thereby are located and duly indexed in the names of all the parties, the costs of such record-

ation to be taxed as a part of the costs of the proceedings. Any orders in the proceedings whereby other persons are made parties, shall be recorded and indexed in like manner.

Code 1919, § 1742.

§ 21-312. Examination; preliminary report.

The board of viewers shall proceed, as soon as practicable, to examine the land described in the petition and other land if necessary, to locate properly such improvement or improvements as are petitioned for, along the route described in the petition, or any route answering the same purpose, if found more practicable or feasible, unless previously surveyed by United States or other engineer and may run levels such as may be necessary to determine the elevation of the several parts of the district, and shall make and return to the clerk of the court of the county, within sixty days, unless, either before or after the expiration of the period, the time shall be, for good cause shown, extended by the court, or the judge thereof in vacation, a written report, signed by the members of the board or by the majority, thereof, which shall in the case of drainage, set forth:

- (a) Whether the proposed drainage is practicable or not;
- (b) Whether it will benefit the public health or any public highway or be conducive to the general welfare of the community;
- (c) Whether the improvement proposed will benefit the lands sought to be benefited;
- (d) The character of the lands and their probable value after the proposed drainage has been completed;
- (e) Whether or not all the lands that are benefited are included in the proposed drainage district; and naming the owners thereof and the approximate acreage of each which they estimate will be affected. They shall also file with this report a map of the proposed drainage district, showing the location of the ditch or ditches or other improvements to be constructed and the lands that will be affected thereby, and such other information as they may have collected that will tend to show the correctness of their findings.

Code 1919, § 1743; 1920, p. 607; 1926, p. 609.

§ 21-313. Repealed.

Repealed by Acts 1954, c. 642.

§ 21-314. Notice of consideration of preliminary report.

After the petition is entertained by the court, notice shall be given to all interested landowners or their representatives in writing mailed to their last known address and by publication in two consecutive issues of any daily or weekly newspaper published in any city, town or village situated within the original geographical bounds of the county or counties in which the proposed district is located, if such there be, otherwise in any daily or weekly newspaper designated by the court or the judge thereof, and also by posting a written or printed notice at the door of the courthouse, that on the date set, naming the day, the court will consider and pass upon the preliminary report of the board of viewers. At

least five days shall intervene between the date of the second publication and the posting of the notices and the date set for the hearing.

Code 1919, § 1745; 1926, p. 610; 1954, c. 642.

§ 21-315. Hearing objections to preliminary report.

At the date appointed for the hearing, or upon any date to which the same may be continued, in its discretion, the court shall hear and determine any objection that may be offered to the report of the board of viewers.

Code 1919, § 1746.

§ 21-316. Exclusion of land not affected by drainage.

If it appears that there is any land within the proposed levee or drainage district that will not be affected by the leveeing or drainage thereof, such lands shall be excluded and the names of the owners withdrawn from such proceeding.

Code 1919, § 1746.

§ 21-317. Changing boundaries to include land affected.

If it shall be shown that there is any land not within the proposed district that will be affected by the construction of the proposed levee or drain, the boundary of the district shall be so changed as to include such land, and such additional landowners shall be made parties plaintiff or defendant, respectively, and summons shall be issued accordingly, as hereinbefore provided. And, upon petition of any party so summoned, filed within ten days after such summons has been served upon him, the court shall hear and decide any objection made by the petitioner as to the establishment of the district or the inclusion of the petitioner's land in the same. After such changes in the boundary are made, the sufficiency of the petition shall be verified to determine whether or not it conforms to the requirements of § [21-295](#). Any person, whose lands are affected, may, at this stage of the proceedings, sign the petition so as to render same sufficient.

Code 1919, § 1746.

§ 21-318. Determining efficiency of drainage; changes.

The efficiency of the drainage or levee shall also be determined, and if it appears that the location of any levee or drain can be changed so as to make it more effective, or that other branches or spurs should be constructed, or that any branch or spur projected may be eliminated, or other changes made that will tend to increase the benefits of the proposed work, such modification and changes shall be made by the court.

Code 1919, § 1746.

§ 21-319. Board of viewers to attend hearing.

The board of viewers shall attend such hearing, and give any information or evidence that may be sought to verify and substantiate their report.

Code 1919, § 1746.

§ 21-320. Repealed.

Repealed by Acts 1954, c. 642.

§ 21-321. Preliminary establishment of district.

The above facts having been determined to the satisfaction of the court, and the approximate boundaries of the proposed district determined, it shall declare the preliminary establishment of the drainage or levee district, which shall be designated by name or number, for the object and purpose as herein set forth.

Code 1919, § 1746.

§ 21-322. Land excluded from district but located within boundaries.

If any lands shall be excluded from the district because of the court having found that such lands will not be affected or benefited, and the names of the owners of such lands have been withdrawn from such proceedings, but such lands are so situated as necessarily to be located within the outer boundaries of the district, such fact shall not prevent the establishment of the district, and the lands shall not be assessed for any drainage tax, but this shall not prevent the district from acquiring a right-of-way across such lands for constructing a canal or ditch or for any other necessary purpose authorized by law.

Code 1919, § 1746.

§ 21-323. Condemnation of land.

If it shall be necessary to acquire a right-of-way and outlet over and through any lands or to remove any dam or other obstacle, whether the same is or is not operated under a decree of court, and the same cannot be acquired by purchase at a price deemed reasonable by the court upon report to the court by the board of viewers thereupon, then in such event the power of eminent domain is conferred, and the same may be condemned. Such owner of the land, dam, or other obstacles proposed to be condemned, may all be made parties defendant in one condemnation suit or proceeding, whether such owner or owners are all interested in one tract or parcel of land, dam or other obstacle, or different owners are interested in different tracts or parcels of land or different dams or other obstacles, and the procedure in such condemnation suit or proceeding shall be under the restrictions provided by the general statutes of this Commonwealth relative to the condemnation of land so far as the same may be applicable and are not in conflict with the provisions of this chapter.

Code 1919, § 1747; 1928, p. 604.

§ 21-324. Right of appeal.

Any person or corporation owning lands within the drainage or levee district, which he or it thinks will not be benefited by the improvement, and should not be included within the district, shall have a right to appeal as provided by Chapter 26 (§ [8.01-669](#) et seq.) of Title 8.01; but such appeal shall be perfected within sixty days from the date of the order finally establishing the drainage district, after which time, no appeal shall be allowed.

Code 1919, § 1748; 1926, p. 610.

§ 21-325. Complete survey.

After the district is preliminarily established the court shall refer the report of the board of viewers back to them, and unless United States or state engineers have already surveyed the district or the major portion thereof, may make a complete survey, plans and specifications for the drainage or levees, and fix a time when the board of viewers shall complete and file their report, not exceeding six months; but such time may be extended by the court for good cause shown, either before or after the expiration of the time.

Code 1919, § 1749; 1920, p. 607.

§ 21-326. Assistance in making survey.

The board of viewers shall have power to employ such assistants as may be necessary to make a complete survey of the drainage district, and unless already completely surveyed and chartered, by United States or state engineers, shall enter upon the ground and make a survey of the main drain, or drains, and all its laterals, as approved by the court at the preliminary hearing, or any other drainways, answering the same purpose, if found more feasible or economical.

Code 1919, § 1750; 1920, p. 609; 1926, p. 610.

§ 21-327. Courses, distances and levels.

The line of each ditch, drain or levee shall be plainly and substantially marked upon the ground, by the cutting or marking of necessary trees, staking or otherwise. The course and distance of each ditch shall be carefully noted and sufficient notes made so that it may be accurately platted on the plan of the drainage district. A line of levels shall be run for the entire work, and sufficient data secured from which accurate profiles and plans shall be made.

Code 1919, § 1750; 1920, p. 609; 1926, p. 611.

§ 21-328. Bench marks.

Frequent bench marks shall be established along the line, on permanent objects, and their elevation recorded in the field books.

Code 1919, § 1750; 1920, p. 610; 1926, p. 611.

§ 21-329. Other levels.

If it is deemed expedient by the board of viewers, other levels may be run to determine the fall from one part of the district to another. If an old watercourse, land drainage, ditch or channel is to be widened, deepened, or straightened, it shall be accurately cross-sectioned so as to compute the number of cubic yards saved by the use of such old channel.

Code 1919, § 1750; 1920, p. 610; 1926, p. 611.

§ 21-330. Drainage map.

A drainage map of the district shall then be completed, showing the location of the ditch or ditches, and other improvements, and the acreage as closely as may be determined by the records, or if necessary, from the notes of the survey, by the drainage engineer, of the lands, designating each tract by a

number, owned by each individual landowner or corporation within the district. The location of any railroads or public highways and the boundary of any incorporated town or village within the district shall be shown on the map.

Code 1919, § 1750; 1920, p. 610; 1926, p. 611.

§ 21-331. Profile of each levee, etc.; estimate of costs; rights-of-way.

There shall also be prepared to accompany this map a profile of each levee, drain, or watercourse, showing the surface of the ground, the bottom of the grade of the proposed improvement and the number of cubic yards of excavation or fill in each mile or fraction thereof, and the total number of cubic yards in the proposed improvement and the estimated cost thereof, the cost of any other work required to be done including the cost of the rights-of-way for the levees, drains and ditches of the district, and the report shall state an estimate of the cost thereof and what rights-of-way are required to be purchased or condemned, and the board of viewers is directed to obtain the consent in writing of such landowners as will permit the levees, ditches and drains to be constructed through their lands without charge on their part for the land so to be taken and occupied, and before the county board of drainage commissioners hereinafter mentioned shall advertise for bids under the provisions of this chapter, they shall proceed to condemn such lands as shall have been reported by the board of viewers and approved by the court as necessary to be condemned; such condemnation proceedings to be in accordance with [§ 21-323](#).

Code 1919, § 1750; 1920, p. 610; 1926, p. 611.

§ 21-332. Adoption of surveys already made.

In any case where surveys have been made by or under the direction of any engineer, surveyor, corporation, town, city, county, state or of the United States government, of lands, in any part or parcel of land included within any proposed drainage district, authority is given to the court in which the proceedings involving such land are condemned to adopt such survey or surveys and such information concerning the same as can be obtained from the engineer, surveyor, corporation, town, city, county, state or United States government, and to dispense with any other survey work which in its judgment can be omitted without prejudice to the right of any party whose lands are affected.

Code 1919, § 1750; 1920, p. 610; 1926, p. 611.

§ 21-333. Assessment of damages.

It shall be the further duty of the board of viewers to assess the damages claimed by anyone that are justly right and due him for land taken or for inconvenience imposed because of the construction of the improvement or for any other legal damages sustained. Such damage shall be considered separate and apart from any benefit the land would receive because of the proposed work.

Code 1919, § 1751.

§ 21-334. Classification of land; benefits; assessments.

It shall be the further duty of the board of viewers personally to examine the land in the district and classify it with reference to the benefit it will receive from the construction of the levee, ditch, drain, or

watercourse or other improvement and to determine rates of assessment in direct proportion to the benefits received on an acreage basis subject to the approval of a majority of the petitioners who own a majority of the land.

Code 1919, § 1752; 1924, p. 707; 1926, p. 612; 1954, c. 642.

§ 21-335. Cost of survey.

The board of viewers or the drainage engineer shall keep an accurate account and report to the court or the judge thereof in vacation the name and number of days each person was employed on the survey, the kind of work he was doing and the rate of pay of each, and all other incidental expenses whatsoever, supported by vouchers, that have been incurred in the execution of the survey, including cost of maintenance, transportation, supplies and materials, which when paid by one of the members of the board shall be allowed by the court or the judge thereof and for which he shall be reimbursed in addition to his compensation.

When a separate account of a member of the board of viewers, approved by the engineer, if other than his own, has been rendered for his personal services performed under decree of the circuit court and incidental expenses in connection with the survey, the court or the judge thereof in vacation, shall examine the same and when found correct, in proper form and according to law, the judge shall thereupon, without further delay, approve and certify to the account, and shall enter an order that the same shall be paid, as provided for in § [21-306](#).

Code 1919, § 1753; 1924, p. 707; 1926, p. 612.

§ 21-336. Delay; extension of time.

In case the work is delayed by high water, sickness or any other good cause, and the final report is not completed at the time fixed by the court, the engineer on the board of viewers shall communicate with the court or the judge thereof in vacation, either before or after the expiration of the time, and state in writing the cause of such failure and ask for sufficient time in which to complete the work and the court or the judge thereof shall set another date by which the report shall be completed and filed; the action of the court or judge in such a case to be conclusive evidence as to the sufficiency of the grounds for such postponement or extension.

Code 1919, § 1754; 1926, p. 613.

§ 21-337. Final report; notice of hearing.

When the final report is completed and filed a date shall be fixed for the final hearing upon the report, and notice thereof shall be given in accordance with § [21-314](#).

Code 1919, § 1755; 1926, p. 613; 1954, c. 642.

§ 21-338. Duty of viewers to review report and make changes.

At the date set for the hearing any landowner may appear in person or by counsel and file his objection in writing to the final report of the board of viewers, and it shall be the duty of said board of viewers to carefully review the objections filed thereto and to make such changes as it deems necessary to

render substantial and equal justice to all the landowners in the district. If there be no objections made, or if any objections made are satisfactorily adjusted, the board of viewers shall certify such fact to the court.

Code 1919, § 1756; 1926, p. 613; 1954, c. 642.

§ 21-339. Approval by court.

If, in the opinion of the court, the cost of construction, together with the amount of damage assessed is not greater than the increased value of the lands affected and of the benefits that will accrue to the lands, the court shall confirm the final report of the board of viewers, and shall declare the drainage district to be finally established, and shall approve the survey and plans therefor.

Code 1919, § 1756; 1926, p. 614.

§ 21-340. Power of court to reopen after approval.

Nothing in this chapter shall be construed as depriving the court of the power of reopening the proceedings in any case after the approval of the final report and before the letting of the contract in accordance with § [21-349](#), in order to make such changes in the plans as may be necessary to an economical or cheaper completion of the work, provided, such reopening is upon ten days' notice to all parties.

Code 1919, § 1756; 1926, p. 614.

§ 21-341. Dismissal of proceedings when cost exceeds benefit.

If the court finds that the cost of construction, together with the damages assessed is greater than the value of the resulting benefit that will accrue to the lands affected, or greater than the potential value of the lands after the completion of the proposed drainage, the court shall dismiss the proceedings at the cost of the petitioners, and apportion the cost among them, each according to acreage in the proposed district, including the expenses incurred by reason of the filing of the petition including the compensation paid to the engineer, his assistants, and the other members of the board of viewers.

Code 1919, § 1756; 1926, p. 614.

§ 21-342. Appeal.

Either party shall have a right to appeal from the judgment of the court as provided by Chapter 26 (§ [8.01-669](#) et seq.) of Title 8.01. Such appeal shall be perfected within sixty days from the entry of the order confirming the final report of the board of viewers.

Code 1919, § 1756; 1926, p. 614.

§ 21-343. Payments into court.

The court may, from time to time, order the petitioners to pay into court, or as the court may direct, such amounts at a flat rate per acre according to the area owned by each within the bounds of the district as may be necessary to pay costs and expenses theretofore accrued, such amount to be repaid from the drainage fund to the petitioners in equal sums as were received together with interest thereon at the rate of six per centum per annum by order of the court when, and if the bonds of the district are sold, or

the drainage fund otherwise provided and such order to pay into court when entered, shall have the force and effect of a judgment, and it shall be docketed in the judgment docket of the court of the county in which the petition was filed by the clerk thereof, if not paid within thirty days from the entry of the order. Ten days' notice, however, shall be given by the clerk to each person affected thereby, of such order of the court.

Code 1919, § 1756; 1926, p. 614.

§ 21-344. Payment of total costs and expenses.

The total amount of the costs and expenses, or any part thereof may be paid by any person in lieu of assessments against his land with the consent of the board of viewers. If all landowners elect to pay their total assessed costs, upon the request of the board of viewers, the sale of bonds shall not be made.

Code 1919, § 1756; 1926, p. 614; 1954, c. 642.

§ 21-345. Assessment of lands benefited not theretofore included.

If, at any time after the final confirmation of the final report of the board of viewers, and final establishment of the district, the county board of drainage commissioners hereinafter mentioned having jurisdiction over the drainage district, are advised that the lands of any person are benefited by the drainage, such lands not having been included in the district or assessed theretofore on account of the drainage, the board, after giving not less than ten days' legal notice to such person, shall hear and determine whether any, and if any, what monetary benefit has been received by such person or persons by reason of the drainage, and the amount so ascertained by the county board of drainage commissioners, if any, shall be assessed against the lands of such person, in like manner and collected in the same way as if the lands had been classified, listed and assessed in the original assessment of the lands in the drainage district. Such person shall have the right of appeal, from the findings of the board to the circuit court of the county in which the petition was filed. Such appeal shall be perfected within ten days from the date of the findings of said board, after which time no appeal shall be allowed.

Code 1919, § 1757; 1926, p. 614.

§ 21-346. Drainage record.

The clerk of the circuit court in which the petition is filed shall provide a suitable book to be known as the drainage record, in which he shall record every petition, motion, order, report, judgment or finding of the court in every drainage transaction that may come before it in such manner as to make a complete and continuous record of the case. Copies of all maps, profiles, minutes of meeting, receipts and other pertinent information are to be furnished by the board of viewers to the clerk of the circuit court and marked by the clerk "official copies," which shall be kept on file by him in his office, and one other copy shall be pasted or otherwise attached to his record book.

Code 1919, § 1758; 1954, c. 642.

§ 21-347. Board of viewers to operate, manage and administer project.

After the drainage project shall have been declared finally established and the survey and plans therefor approved, the board of viewers for such drainage project shall have full authority to operate, manage and administer the affairs of such drainage project as is provided in this chapter.

Code 1919, § 1759; 1926, p. 615; 1954, c. 642.

§ 21-348. Superintendent of construction.

The board of viewers of each drainage project may, if necessary, appoint a competent person as superintendent of construction and shall retain the services of the engineer of the drainage district, or his duly appointed successor in the case of such change having been made, to see that the work be performed according to the plans and specifications. Such engineer and superintendent shall each furnish a bond the cost of which shall be paid by the project and to be approved by and payable to the board of viewers in the penal sum of \$10,000 each, conditioned upon the honest and faithful performance of their respective duties.

Code 1919, § 1760; 1926, p. 616; 1954, c. 642.

§ 21-349. Notice of time and place of letting contract; bids.

The board of viewers of each drainage project shall cause notice to be given daily for two consecutive weeks in some newspaper published in the county wherein such improvement or a part thereof is located if such there be, or in any newspaper within the geographical bounds of the county and in such additional publications elsewhere as they may deem expedient, of the time and place of letting the work of construction of the improvement, and in such notice they shall specify the security to accompany each bid, the approximate amount of work to be performed and the time fixed for the completion thereof; and, on the date appointed for the letting they, together with the superintendent of construction, or the engineer, shall convene and let to the lowest responsible bidder, either as a whole or in sections, as they may deem the most advantageous for the district, the proposed work.

Code 1919, § 1761; 1926, p. 616; 1954, c. 642.

§ 21-350. Bond to accompany bid.

No bid shall be entertained that is not accompanied by a bond with sureties in an amount equal to five per centum of the bid or that exceeds the estimated cost of the work to be awarded to a contractor.

Code 1919, § 1761; 1926, p. 616.

§ 21-351. Rejection of bid.

The board shall have the right to reject all bids once and advertise again the work, if, in their judgment, the interests of the project will be subserved by so doing, but if, upon the second bidding, all the bids exceed the estimated cost of the work, the bids shall be reported to the court by the board of viewers of each drainage project and the court thereupon, after giving notice to all parties affected in a manner similar to that required before the hearing of the final report, as set out in [§ 21-337](#), shall hear and decide anew the question of finally establishing the district, taking as the basis of cost the lowest responsible bid as reported to it by the board of viewers, and the proceeding thereupon shall be as set forth in §§ [21-338](#) to [21-344](#), and if the court anew decides that the value of the benefits of the

increased value of the lands will exceed the costs it shall direct the board of viewers to accept the lowest responsible bid, otherwise the petition shall be dismissed at the cost of the petitioners. Cost shall be apportioned among them each according to acreage.

Code 1919, § 1761; 1926, p. 616; 1954, c. 642.

§ 21-352. Contract and bond of successful bidder.

A successful bidder shall be required to enter into a contract with the board of viewers of each drainage project and to execute a bond for the faithful performance of such contract, with sufficient sureties in favor of the board of viewers for the use and benefit of the levees, or drainage project in an amount equal to twenty-five per centum of the amount of the contract price of the work awarded to him.

Code 1919, § 1761; 1926, p. 616; 1954, c. 642.

§ 21-353. Superintendent and engineer to act as advisors.

In canvassing bids and letting the contract, the superintendent of construction or the engineer shall act only in an advisory capacity to the board of viewers.

Code 1919, § 1761; 1926, p. 617; 1954, c. 642.

§ 21-354. Basis of contract; inspection.

The contract shall be based on the plans and specifications submitted by the board of viewers in their final report as confirmed by the court, the original of which shall remain on file in the office of the clerk of the county in which the petition for the district was filed and shall be open to the inspection of all prospective bidders.

Code 1919, § 1761; 1926, p. 617.

§ 21-355. Opening bids.

All bids shall be sealed and shall not be opened except under the authority of the board of viewers and on the day theretofore appointed for opening the bids.

Code 1919, § 1761; 1926, p. 617; 1954, c. 642.

§ 21-356. Correction of report.

The board of viewers of each drainage project shall have power to correct errors and modify the details of the final report, if in their judgment they can increase the efficiency of the drainage plan and afford better drainage to the lands in the district without increasing the estimated cost.

Code 1919, § 1761; 1926, p. 617; 1954, c. 642.

§ 21-357. Monthly estimates.

The superintendent in charge of construction or the engineer shall make monthly estimates of the amount of work done, and shall furnish one copy to the contractor and file the other with the board of viewers and the board shall, within five days after the filing of such estimate, meet and direct the secretary to draw a warrant in favor of such contractor for ninety per centum of the work done, according to the specifications and contract; and upon presentation of such warrant, properly signed by the

chairman and secretary, to the treasurer, of the drainage fund he shall pay the amount due thereon. When the work is fully completed and accepted by the superintendent or the engineer, the engineer shall make an estimate for the whole amount due, including amounts withheld on the previous monthly estimates, which shall be paid from the drainage fund, as before provided.

Code 1919, § 1762; 1926, p. 617; 1954, c. 642.

§ 21-358. Failure of contractor.

If any contractor to whom the work or a portion of the work shall have been let shall fail to perform the same according to the terms specified in his contract, action may be had in behalf of the board of viewers against such contractor on his bond in the circuit court for damage sustained by the levee or drainage project and recovery made against such contractor and his sureties. In such an event the work shall be advertised and relet in the same manner as the original letting.

Code 1919, § 1763; 1926, p. 617; 1954, c. 642.

§ 21-359. Highway affected.

Where any public ditch, drain or watercourse established under the provisions of this chapter crosses a public highway, the Department of Transportation shall provide bridges or culverts of adequate capacity to permit the free flow of water. The landowners in the drainage project shall bear the excavation cost for such structures.

Any government installation whether federal, state, county, city or town with runoff or acres draining into such a watershed area will be considered a landowner and shall be assessed on an acreage basis for drainage at the same rate as any other landowner.

Code 1919, § 1764; 1924, p. 107; 1926, p. 617; 1954, c. 642.

§ 21-360. Railroad; damage.

Whenever the board of viewers shall make a survey for the purpose of locating a public levee or drainage project or changing a natural watercourse, and the same would cross the right-of-way of a railroad company it shall be the duty of the board of viewers promptly to notify the railroad company by serving written notice, accompanied by plans and profiles, upon the agent of such company or its lessee or receiver, that they will meet the company's representative at the place where the proposed ditch, drain, or watercourse crosses the right-of-way of such company, or at such other place as may be agreed upon by the respective parties. The meeting shall not be less than ten days after the service of notice fixing the time of the same, for the purpose of conferring with the railroad company with relation to the place where and the manner in which such improvements shall cross such right-of-way. When the time fixed for such conference shall arrive, unless for good cause more time is agreed upon, it shall be the duty of the board of viewers and the railroad company to agree, if possible, upon the place where and the manner and method in which such improvement shall cross such right-of-way. If, however, the board of viewers and the railroad company cannot agree, the whole matter shall be reported to the court by the board of viewers, and by the court referred to the State Corporation Commission as arbiters. The fact that the railroad company is required by the construction of the improvement to build

a new bridge or culvert or to enlarge or strengthen an old one, shall be considered as damages to the railroad company to the extent of the actual cost thereof, as provided in § [21-359](#).

Code 1919, § 1765; 1954, c. 642.

§ 21-361. Assessment of benefits to railroads.

The board of viewers shall also assess the benefits that will accrue to the right-of-way of the company by affording better drainage or a better outlet for drainage, as provided in § [21-359](#), in the case of highways; but no benefits shall be assessed because of the increase of business that may come to the road because of the construction of the improvement. The benefits shall be assessed as provided in § [21-334](#), and it shall be reported by the board of viewers as an assessment, due from the railroad company; and unless the same is paid when due by the company as an assessment, it may be collected in the manner of an ordinary debt in any court having jurisdiction; but the board of viewers of each drainage project shall have the right to enter into contracts with any such railroad company looking to a further assessment by virtue of the benefits received under this chapter.

Code 1919, § 1766; 1926, p. 618; 1954, c. 642.

§ 21-362. Notice to railroad.

The clerk of the circuit court shall have notice served upon the railroad company of the time and place of hearing of the final report of viewers under § [21-361](#), and the railroad company shall have the right to file objections to the report, and to appeal from the findings of the court in the same manner as any landowner, as provided in §§ [21-292](#) through [21-361](#).

Code 1919, § 1767.

§ 21-363. Manner of crossing right-of-way; cost.

After the contract is let and the actual construction is commenced, the superintendent in charge of construction shall notify the railroad company of the probable time at which the contractor will be ready to enter upon the right-of-way of the road and construct the work thereon. It shall be the duty of the railroad to send a representative to view the ground with the superintendent of construction, and arrange the exact time at which such work can be most conveniently done. The work shall be so planned and conducted as to interfere in the least possible manner with the business of the railroad; and shall be conducted under the supervision and direction of the representative of the railroad company.

However, all work necessary in the roadbed of the railroad company, including all temporary and permanent work, shall be promptly done by the railroad company and paid for from the fund of the drainage project in the same manner as provided in § [21-359](#), covering public highways.

Code 1919, § 1768; 1954, c. 642.

§ 21-364. Control and repairs; penalty for injury to construction.

Whenever any improvement constructed under this chapter is completed, it shall be under the control and supervision of the board of viewers of the project in the county in which the petition was filed. It shall be the duty of the board to keep the levee, ditch or watercourse in good repair, and for this purpose they may levy an assessment on the lands benefited by the construction of such improvements

in the same manner and in the same proportions as the original assessments were made, and the fund that is collected shall be used for repairing and maintaining the ditch, drain or watercourse in perfect order; but if any repairs are made necessary by the act or negligence of the owner of any land through which such improvement is constructed, or by the act or negligence of his tenants, agents or employees or the same is caused by cattle, hogs, or other stock of the owner, employee, or agent, then the cost thereof shall be assessed and levied against the lands of the owner alone, to be collected by proper suit instituted by the board of viewers.

It shall be unlawful for any person to injure or damage or obstruct or build any bridge, roadway, fence or flood gate in such a way as to injure or damage any levee, ditch, drain, or watercourse constructed or improved under the provisions of this chapter, and any person causing such injury shall be guilty of a misdemeanor, and upon conviction thereof may be fined any sum not exceeding twice the damage for injury done or caused.

Code 1919, § 1769; 1926, p. 618; 1954, c. 642.

§ 21-365. Outlet for lateral drains.

The owner of any land that has been assessed for the construction of any ditch, drain or watercourse as herein provided, shall have the right to use the ditch, drain or watercourse as herein let for lateral drains from the land; and if the land is separated from the ditch, drain or watercourse by the land of another or others, and the owner thereof shall be unable to agree with the other or others as to the terms and conditions on which he may enter their lands and construct the drain or ditch, he may file his ancillary petition to the court in such pending proceeding, and the procedure shall be as now provided by law. When the ditch is constructed it shall become a part of the drainage system, and shall be under the control of the board of viewers and kept in repair by them, as provided in this chapter.

Code 1919, § 1770; 1926, p. 619; 1954, c. 642.

§ 21-366. Certification and record of total cost.

After the contract for the work of construction of the improvement has been let, the board of viewers shall ascertain the total cost of the improvement, including damages awarded to be paid to owners of land, all costs of incidental expenses, and including a reasonable attorney's fee to counsel for petitions for conducting the proceedings on behalf of the petitioners, the amount of such fee to be fixed by the board of viewers and also including an amount sufficient to pay the necessary expenses of maintaining the improvement for a period of three years after the completion of the work of construction, after deducting therefrom any special assessments made against any railroad or highway. Thereupon the board of viewers under the hand of the chairman and secretary of the board, shall certify to the clerk of the circuit court the total cost, ascertained as aforesaid; and the certificate shall forthwith be recorded in the drainage record and open to inspection of any landowner in the district.

Code 1919, § 1771; 1920, p. 610; 1924, p. 710; 1926, p. 619; 1936, p. 1034; 1954, c. 642.

§ 21-367. Preparation and contents of drainage tax lists.

The board of viewers, with the assistance of the engineer, shall immediately prepare, in duplicate, the assessment rolls, or drainage tax lists, giving thereon the name of the owners of land in the district, so far as can be ascertained from the public records, or, if necessary, from the survey made by the drainage engineer a brief description of the several tracts of land assessed, and the amount of the assessment against each tract of land.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 619; 1936, p. 1034; 1954, c. 642.

§ 21-368. Assessment rolls to provide for bond interest payments.

The first of these assessment rolls shall provide assessments sufficient for the payment of interest on the bond issue to accrue the third year after their issue, and the instalment of principal to fall due at the expiration of the third year after the date of issue, together with such amounts as shall have to be paid for collecting and handling of the same. The second assessment roll shall make like provision for the fourth year; the third for the fifth year; and in like manner for each succeeding year.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 619; 1936, p. 1034.

§ 21-369. Amount of tax levied.

In each year commencing with the maturity of the bonds, the tax levied shall be 110 per centum of the maturing principal and interest on the bonds, in this manner providing for the payment of maturing principal and interest on the bonds one year in advance.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 620; 1936, p. 1034.

§ 21-370. Application of surplus to reduce assessment for following year.

When the sum actually collected on any such assessment shall be more than sufficient to pay the principal and interest for the next succeeding year, a proper allowance for such surplus shall be made in the following assessment, and the percentage may be reduced accordingly.

Code 1919, § 1771; 1924, p. 711; 1926, p. 620; 1936, p. 1034.

§ 21-371. Assessment rolls to show time collectible; amount of assessment to depend on benefits.

Each of such assessment rolls shall specify the times when collectible, and be numbered in their order, and the amount assessed against the several tracts of land shall be in accordance with the benefits received, as shown by the classification of ratio of assessments made by the board of reviewers.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 620; 1936, p. 1035.

§ 21-372. Signing rolls.

These assessment rolls shall be signed by the chairman of the board of viewers and by the secretary of the board.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 620; 1936, p. 1035; 1954, c. 642.

§ 21-373. Disposition of rolls.

One copy of each of the assessment rolls shall be filed with the drainage record and one copy shall be delivered to the county treasurer, or treasurers of the county or counties in which the lands are located, after the clerk of the circuit court in which the petition was filed has appended thereto an order directing the collection of the assessments, and the clerk is authorized and directed to make and append such order.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 620; 1936, p. 1035.

§ 21-374. Assessment shall have effect of judgment and constitute lien.

The assessments shall thereupon have the force and effect of a judgment as in the case of state and county taxes. These assessments shall constitute a lien upon the lands assessed with the payment thereof, second only to state, county and district taxes and levies and shall be collected in the same manner by the same officers as the state and county taxes are collected.

Code 1919, § 1771; 1920, p. 611; 1924, p. 711; 1926, p. 620; 1936, p. 1035.

§ 21-375. When assessment due and payable; when delinquent.

The assessments shall be due and payable on the first Monday in September in each year, and if the same shall not be paid in full by the thirty-first day of December following, they shall be delinquent and shall be entered as such by the treasurer of the county in which the lands whereon the assessments are delinquent are located, on his copy of the assessment rolls, which entry shall be notice of the lien of any such delinquent assessment to the same extent as the entry of lands in the delinquent tax books is notice of the lien thereon.

Code 1919, § 1771; 1920, p. 611; 1924, p. 712; 1926, p. 620; 1936, p. 1035.

§ 21-376. Interest from delinquency; penalty.

From the date of delinquency of any assessment it shall bear interest at the legal rate, and a penalty of five per centum of the assessment shall be added thereto.

Code 1919, § 1771; 1924, p. 712; 1926, p. 620; 1936, p. 1035.

§ 21-377. Notice of sale of delinquent land.

If any assessment is delinquent for more than a year, the treasurer of the county within which the land assessed lies shall, after the expiration of such year, proceed to sell the land by having notice of such intended sale served on the record owner of the land, if he is a resident of this Commonwealth and his whereabouts herein is known, as process is served in actions at law, by publishing the notice of such sale in a newspaper published or having general circulation in his county, and by posting the notice at the courthouse door; such service, publication and posting shall be not less than thirty days in advance of the date set for the sale. Such publication and posting shall be sufficient notice of the sale to all parties in interest except the owner resident in this Commonwealth. Such notice with the return thereon, if it is served, and the certificate of the treasurer setting forth the date and medium of publication shall be filed by the treasurer in his office.

Code 1919, § 1771; 1924, p. 712; 1926, p. 620; 1936, p. 1035.

§ 21-378. Place of sale when land lies in more than one county.

If the land upon which assessments are delinquent lies in more than one county, the treasurer of each county shall sell the portion lying therein.

Code 1919, § 1771; 1924, p. 712; 1926, p. 621; 1936, p. 1035.

§ 21-379. Time of sale of delinquent lands.

The sale of the lands for failure to pay such assessments shall be made at the courthouse door of the county in which the lands are situated, between the hours of 10:00 in the forenoon and 4:00 in the afternoon of the first Monday in February of each year. If for any necessary cause the sale cannot be made on that date, the sale may be continued from day to day for not exceeding four days, or the lands may be readvertised and sold on the first Monday in March succeeding during the same hours without any order therefor. If the county treasurer for any reason fail to make sale of any lands on the first Monday in February or March in any year, he may sell the same upon the first Monday of any subsequent month in the same year or any succeeding year after giving notice as required by law.

Code 1919, § 1771; 1920, p. 612; 1924, p. 712; 1926, p. 621; 1936, p. 1035.

§ 21-380. Redemption of delinquent lands sold.

The existing general tax law in force when sales are made for delinquent assessments shall have application in redeeming lands so sold.

Code 1919, § 1771; 1926, p. 621; 1936, p. 1036.

§ 21-381. Sufficiency of bids at delinquent sales.

No bid at any sale shall be received unless sufficient in amount to discharge all the drainage assessments and other charges due by the delinquent lands or owner thereof, together with all costs and expenses of sale. If no sufficient bid be received, the board of viewers shall be deemed the purchaser at a sum sufficient to pay all assessments which are due, and costs, as above stated, and shall be entitled to receive a certificate of purchase and deed in the manner provided by law for purchases at tax sales. The board of viewers shall only be required to pay the costs and expenses of sale before receiving a certificate of purchase, and no lands shall be subsequently sold for drainage assessments while the board of viewers holds a certificate of purchase or deed therefor.

Code 1919, § 1771; 1926, p. 621; 1936, p. 1036; 1954, c. 642.

§ 21-382. Rights of board of viewers at sale.

The board of viewers shall be in like position and have the same rights and be subject to the same duties as the purchaser of lands at any tax sale under the general law.

Code 1919, § 1771; 1926, p. 621; 1936, p. 1036; 1954, c. 642.

§ 21-383. Who may redeem.

The owner of the lands so sold or any person having an estate therein or having a lien thereon may redeem the same in the manner provided by law; and if the board of viewers shall have been the purchaser of the lands, the amount paid in redemption shall include the sum bid therefor plus the penalty.

Code 1919, § 1771; 1926, p. 621; 1936, p. 1036; 1954, c. 642.

§ 21-384. Board of viewers to pay treasurer.

When the period of redemption has expired the board of viewers shall pay to the treasurer or treasurers of the county or counties in which the lands lie the balance of the amount representing its bid at the sale of the lands and any accumulated assessments on the lands, before it or its assigns shall be entitled to a deed therefor.

Code 1919, § 1771; 1936, p. 1036; 1954, c. 642.

§ 21-385. Effect when board of viewers acquires land at sale.

The board of viewers, after acquiring a deed for such lands, may hold the same as an asset of the project of which the lands are a part, and shall be liable for the payment of all drainage assessments and state and county taxes accruing after the sale at which the district was a bidder, and in all respects be deemed the owner of the lands and subject to the same privileges and liabilities as any other landowner, including the right to convey the lands for a consideration and pay the proceeds of the sale to the county treasurer for the credit of the district, of which such lands are a part, which may be distributed by the board of viewers for the benefit of the district in the same manner as other district funds.

Code 1919, § 1771; 1926, p. 621; 1936, p. 1036; 1954, c. 642.

§ 21-386. Sale and collection according to general law.

The sale of lands for failure to pay such assessments, and the collection of such assessments, except as herein provided, shall be in accordance with general law as to the collection of state and county taxes.

Code 1919, § 1771; 1924, p. 712; 1926, p. 622; 1936, p. 1037.

§ 21-387. Deed to purchaser.

If no objection is made in any sale of land within thirty days after the date of sale, and the purchase price has been paid, the clerk of the circuit court of the county wherein the land lies shall convey to the purchaser the land sold by special warranty deed receiving therefor the fee provided by law for the conveyance of land sold for delinquent taxes.

Such conveyances shall be indefeasible to the same extent as a conveyance by a special commissioner acting under court appointment, and all persons having actual or constructive notice of the sale shall be precluded by such conveyance from thereafter objecting to the sale.

Code 1919, § 1771; 1924, p. 712; 1926, p. 622; 1936, p. 1037.

§ 21-388. Duty of treasurer to make payments of interest and principal of bonds.

It shall be the duty of the treasurer of the county in which the land is located and without any previous order from the board of viewers, out of the amount received by him as aforesaid, to provide and pay the installment of interest at the time and place as evidenced by the coupons attached to the bonds, and also to pay the annual installments of the principal due on the bonds at the time and place as evidenced by the bonds; namely, so far as they affect and are liens by virtue of this chapter, upon the lands

in his county, and any county treasurer shall be guilty of a misdemeanor, if he shall willfully fail to make prompt payments of the interest and principal upon such bonds, and shall likewise be liable in a civil action for all damages which may accrue either to the board of viewers or the holder of the bonds, to either or both of which a right of action is hereby given.

Code 1919, § 1771; 1920, p. 612; 1924, p. 712; 1926, p. 622; 1936, p. 1037; 1954, c. 642.

§ 21-389. Change of assessment rolls on change of ownership of lands.

If at any time before or after the preparation of the assessment rolls or drainage tax lists the owners of any lands within the boundary of the drainage project, which are liable for assessments or are assessed, should sell the whole or part of the lands, the board of viewers together with the assistance of the drainage engineer of the project, or any other competent drainage engineer, shall so prepare or change the assessment rolls to provide for the change in liability due to the change of ownership of the lands or part thereof. The new owner's name shall be added to the assessment roll and shall thereafter be liable for the drainage assessment upon that portion of the land purchased.

Code 1919, § 1771; 1924, p. 713; 1926, p. 622; 1936, p. 1037; 1954, c. 642.

§ 21-390. Law governing sales.

Sales of lands for delinquent assessments may be made either under the law which was in force at the time of the creation of the drainage district, or under that in force at the time of sale, as may be deemed by the county treasurer more effectual for the enforcement of the assessments and the protection of the interest of the holders of bonds predicated thereon. Any sales of lands heretofore made under either of such laws are declared valid and effectual.

1927, p. 16; Michie Code 1942, § 1771a.

§ 21-391. Notice of redemption.

In any case where such sales have heretofore been made, or shall hereafter be made, and the purchaser of such lands desires a deed therefor, the treasurer shall give notice to all persons, who immediately prior to the sale were record owners of the lands, by publication once a week, for four successive weeks, in a newspaper of general circulation in the county where the lands are situated, in which publication the record owners shall be named, informing the owners that they may, within four months after the first publication of the notice, redeem the lands by paying the full amount of all assessments due for the year or years for which the lands were delinquent at the time of sale, together with the full amount of any assessments which may have become due upon the lands before their redemption hereunder, and together with all interest and penalties due upon the several amounts of such assessments.

1927, p. 16; Michie Code 1942, § 1771a.

§ 21-392. Repayment to purchasers on redemption; deed on failure to redeem.

If any record owner shall redeem the lands, as aforesaid, it shall be the duty of the treasurer to repay to the purchaser at the sale, from the amount so paid in redemption, the amount paid by him for the lands so redeemed, with interest thereon; and thereafter the former owner so redeeming the same shall hold

the same discharged from the lien of the assessments so paid by him, but subject to all assessments which may thereafter become due or be made upon the lands; but if the lands be not redeemed within the period, it shall then be the duty of the treasurer to execute and deliver to the purchaser of the lands a good and sufficient deed therefor, with special warranty, in which deed the clerk of the circuit court of the county shall join, and the purchaser shall thereafter hold the lands in fee simple, subject only to assessments thereafter becoming due thereon.

1927, p. 17; Michie Code 1942, § 1771a.

§ 21-393. Notice of issuance of bonds.

The board of viewers of the county in which the petition was filed shall give notice by publication once a week for three successive weeks in some newspaper published in the county in which the project, or some part thereof, is situated, if there be any such newspaper, and also by posting a written or printed notice at the door of the courthouse and at five conspicuous places in the project, reciting that they propose to issue drainage bonds for the total cost of the improvement, giving the amount of the bonds to be issued, the rate of interest that they are to bear, and the time when payable.

Code 1919, § 1772; 1926, p. 623; 1954, c. 642.

§ 21-394. Payment of full amount by landowner.

Any landowner in the project not wanting to pay interest on the bonds may, within fifteen days after the last publication of the notice, pay to the treasurer of the county in which his land is located the full amount for which his land is liable, to be ascertained from the assessment list, and the certificate of the board of viewers showing the total cost of the improvements, and have his lands released from liability to be assessed for the improvement; but such land shall continue liable for any future assessment for maintenance or for any increased assessment authorized under this chapter.

Code 1919, § 1772; 1926, p. 623; 1954, c. 642.

§ 21-395. Defense; waiver.

Every person owning land in the district who shall neglect or fail to pay to the treasurer of the county in which his land is located the full amount for which his land is liable, within the time above specified, shall be deemed as consenting to the issuance of the drainage bonds, and in consideration of the right to pay his proportion in installments he thereby waives his right of defense to the payment of any assessments which may be levied for the payment of the bonds, because of any irregularity, illegality, or defect in the proceedings prior to such time, except in case of an appeal, as hereinbefore provided, which is not affected by this waiver.

Code 1919, § 1773.

§ 21-396. Issuing bonds; amount.

At the expiration of fifteen days after publication of notice of bond issue, the board of viewers of the county in which the petition was filed may issue bonds of the drainage project for an amount equal to the total cost of the improvement, including all costs as allowed under the terms of this chapter, less

such amounts as shall have been paid in cash to the county treasurer, or treasurers, plus an amount sufficient to pay interest on the bond issue for the three years next following the date of issue.

Code 1919, § 1774; 1920, p. 612; 1926, p. 623; 1954, c. 642.

§ 21-397. Interest and maturity of bonds.

The bonds shall bear not more than six per centum interest per annum payable semiannually, and shall be paid within thirty years, the first installment of principal shall mature at the expiration of three years from the date of issue.

Code 1919, § 1774; 1920, p. 612; 1926, p. 623.

§ 21-398. Sale of bonds and disposition of proceeds.

The board of viewers, after widely advertising the sale of the bonds in such publications as they deem necessary, may sell the bonds upon the approval of the court or the judge thereof, to the highest bidder, or bidders, and devote the proceeds to the payment for the work as it progresses, and to the payment of the interest on the bonds for the three years next following the date of issue, and to the payment of outstanding indebtedness and the other expenses of the project provided for in this chapter, including a reasonable attorney's fee to counsel for conducting the proceedings, the amount of such fee to be fixed by the court.

Code 1919, § 1774; 1920, p. 612; 1926, p. 623; 1954, c. 642.

§ 21-399. Same; records.

The proceeds derived from the sale of such bonds shall be for the exclusive use of the levee or drainage project specified on their face, and the bonds shall be numbered by the board of viewers and recorded in the drainage record, which record shall set out specifically the lands embraced in the project on which the tax has not been paid in full, which land is to be assessed as hereinafter provided.

Code 1919, § 1774; 1920, p. 612; 1926, p. 623; 1954, c. 642.

§ 21-400. Right of holders on default.

If any installment of principal or interest represented by the bonds shall not be paid at the time and in the manner when the same shall become due and payable, and such default shall continue for a period of six months, the holder or holders of such bond or bonds upon which default has been made shall have a right of action against the board of viewers wherein the circuit court may issue a writ of mandamus against the drainage project, its officers, including the county treasurer, or treasurers, directing the levying of a tax or special assessment as herein provided, and the collection of the same, in such sum as may be necessary to meet any unpaid installment of principal and interest and costs of action, and such other remedies are hereby vested in the holder or holders of such bond or bonds in default as may be authorized by law. The right of action is vested in the holder or holders of such bond or bonds upon which default has been made, authorizing them to institute suit against any officer on his official bond for failure to perform any duty imposed by the provisions of this chapter. The official bond of any county treasurer shall be liable for the faithful performance of the duties herein assigned

him. Such official bonds may be increased by the governing body of any county or the board or party having such authority.

Code 1919, § 1774; 1920, p. 613; 1926, p. 624; 1954, c. 642.

§ 21-400.1. Bonds mutilated, lost or destroyed.

Should any bond issued under this chapter become mutilated or be lost or destroyed, the board of viewers may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for and upon cancellation of such mutilated bond and its interest coupons or in lieu of and in substitution for such lost or destroyed bond and its unmatured interest coupons. Such new bond shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expense and charges in connection therewith and (2) in the case of a lost or destroyed bond, has filed with the board of viewers and the county treasurer satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the county treasurer.

1962, c. 202.

§ 21-401. Exemption of bonds from taxation.

The bonds and coupons issued under and by authority of this and other sections of this chapter shall be exempt from all county or municipal taxation or assessment, direct or indirect, general or special, whether imposed for purposes of general revenue or otherwise, and the interest thereon shall not be subject to taxation as for income, nor shall such bonds and coupons be subject for taxation when constituting a part of the surplus of any bank, trust company, or other corporation, but when constituting a part of such surplus shall be deducted from the total assets in order to ascertain the taxable value of such shares.

Code 1919, § 1774; 1920, p. 613; 1926, p. 624.

§ 21-402. Changing assessments to conform to judgment.

Where the board of viewers has confirmed an assessment for the construction of any public levee, ditch, or drain, and such assessment has been modified by the court to which an appeal has been taken, but for some unforeseen cause it cannot be collected, the board of viewers shall have the power to change or modify the assessments as originally confirmed to conform to the judgment of the higher court, and to cover any deficit that may have been caused by the order of the court or unforeseen occurrence.

Code 1919, § 1776; 1926, p. 624; 1954, c. 642.

§ 21-403. Ratio of relevy.

The relevy shall be made for the additional sum required in the same ratio on the lands benefited as the original assessment was made.

Code 1919, § 1776; 1926, p. 624.

§ 21-404. Payment of assessments from proceeds of sale of land.

If any person, or any number of persons, claiming to have a title to any tract or tracts of land subject to assessment or drainage tax, shall fail to pay an annual assessment levied against such lands, and a county treasurer shall be compelled to sell such lands under the law for the purpose of making such collection, the net proceeds of such sale shall be held by him and disbursed for the purpose of paying the current assessment and future annual assessments so far as the proceeds may be sufficient.

Code 1919, § 1776; 1926, p. 624.

§ 21-405. Procedure when value of land not equal to future assessments.

When the fund in the custody of any county treasurer shall be exhausted in the payment of annual assessments against such lands, or there shall not be a sufficient sum to pay the next annual assessment, such treasurer shall immediately give written notice to that effect to the chairman of the board of viewers of the county in which the petition was filed, and to the clerk of the board, and also to the clerk of the circuit court of the county for which he is treasurer, whereupon the board of viewers for the county in which the petition was filed shall institute an investigation of the tract or tracts of land to determine the market value thereof, and if they shall find the market value of the tract or tracts is not equal to all the future annual assessments to cover its share of installments of principal and interest on the outstanding bonds, they shall proceed to make new assessment rolls on all the remaining lands in the project and increase the sum in sufficient sums to equal the deficit thereby created, and such new assessment rolls shall constitute the future assessment rolls until changed, according to law, and shall be certified to the proper county treasurer or treasurers as herein provided in lieu of the former assessment rolls.

However, the tract or tracts of land which have been so sold by any county treasurer shall continue on the assessment rolls in the name of the new owner, but reassessed upon the new basis, and the drainage tax collected at the same time and in the same manner as other lands, so long as the lands may have sufficient market value out of which to collect the annual drainage tax, and when such lands shall fail to have such value, or shall be abandoned by the person claiming title thereto, the board of viewers may omit the same from the assessment roll; but the lands may in the same manner at any time in the future be restored to the assessment rolls.

Code 1919, § 1776; 1926, p. 624; 1954, c. 642.

§ 21-406. Surplus in hands of treasurer.

If the funds in the hands of any county treasurer at any time arising under §§ [21-403](#), [21-404](#), [21-405](#), [21-408](#) or [21-409](#), or in any other manner, shall be greater than is necessary to pay the annual installments of principal and interest, or the annual cost of maintenance of the drainage works, or both, such surplus shall be held by the county treasurer for future disbursements for other purposes as herein provided or subject to the order of the county board of drainage commissioners of the county in which the petition was filed.

Code 1919, § 1776; 1926, p. 625.

§ 21-407. Impairment or destruction of work during construction.

If there shall be any impairment or destruction of the drainage work by any unforeseen cause or occurrence not anticipated during the period of construction by the contractor, the contractor shall nevertheless repair and complete the works according to the contract and specifications, and shall be liable therefor and also his sureties on his bond.

Code 1919, § 1776; 1926, p. 625.

§ 21-408. Default by contractor.

If the contractor shall make default and if there shall be a failure to collect all the damages from such contractor and the sureties upon his bond, and it shall thereby be necessary to raise a greater sum of money to complete the drainage works in accordance with the plans, or for any other unavoidable cause it shall be necessary to raise a greater sum to complete such drainage work, the board of viewers of the county in which the petition was filed shall prepare new assessment rolls upon all the lands in the project upon the original basis of classification of benefits, and increase the same in sufficient sums to equal the deficit thereby created, and the same shall constitute the new assessment rolls until changed according to law, and shall be certified to the county treasurer or treasurers as herein provided.

Code 1919, § 1776; 1926, p. 625; 1954, c. 642.

§ 21-409. When additional bonds may be issued.

If for any of the causes hereinbefore recited, or for any other cause, a sum of money greater than the proceeds of sale of the drainage bonds shall become necessary to complete the drainage system, and the board of viewers shall determine that the amount to be raised is greater than can be realized from the collection of one annual assessment upon the lands in the drainage project without imposing an undue burden upon the lands, or if it is advisable or necessary to raise the money more expeditiously, then and under such conditions additional bonds may be issued in such aggregate sum as may be necessary.

Code 1919, § 1777; 1926, p. 626; 1954, c. 642.

§ 21-410. Procedure for issuance of additional bonds.

The proceedings for the issue of such additional bonds shall be substantially as follows: The board of viewers of each drainage project in the county in which the petition was originally filed shall issue a notice to all the owners of land within the drainage project, setting forth all the facts which require the expenditure of more money and the issue of additional bonds to complete the drainage system, which shall be accompanied by the recommendation of the drainage engineer, selected by the board of viewers directing each to appear before them on a certain day, mentioning the day, at least ten days' notice being given, and show cause, if any they have, why the additional bonds should not be authorized and issued, which notice shall be served personally on each such landowner by leaving a copy at their residence or place of business, and, if the same cannot be personally served, then it shall be served by publication as hereinbefore stated, or in the manner authorized by law. Any landowner may file an answer denying any material allegation in the notice or setting forth any valid objection to the

same before the return day thereof. Upon the day when the notice is returnable, or on such day, as to which the same may have been continued, the board of viewers shall proceed to hear the answers. If they find that the answers are not material, and that the issue of additional bonds is advisable or necessary, it shall make an appropriate order authorizing and directing the issue of such additional bonds, fixing the amount of the issue, the date of the same, the time when the interest and principal shall be payable, and all other matters necessary and appropriate in the premises. Any landowner may appeal from the order of the board of viewers, as provided by Chapter 26 (§ [8.01-669](#) et seq.) of Title 8.01, and on such appeal only the issue raised in the answer shall be considered. After the board of viewers shall have ordered the additional issue of bonds the further procedure as to the assessment rolls, the levy and collecting of drainage taxes, the disbursement of the revenue therefrom for the payment the bonds and interest thereon, and all future procedure shall be the same as required by the preceding sections of this chapter, and amendments thereto, for the establishment of drainage projects.

Code 1919, § 1777; 1926, p. 626; 1954, c. 642.

§ 21-411. Amount, interest and maturity of additional bonds.

The additional bonds issued shall not exceed twenty-five per centum of the total amount originally issued, and shall bear not more than six per centum interest per annum, and may be made payable in ten annual installments, or lesser number of annual installments as nearly equal as may be, as recommended by the board of viewers having jurisdiction over the same.

Code 1919, § 1777; 1926, p. 627; 1954, c. 642.

§ 21-412. When refunding bonds may be issued.

When any drainage project operating under the provisions of this chapter shall have bonds outstanding, either due or to become due, and when it shall seem to the board of viewers having jurisdiction over such drainage project that it is to the best interest of such drainage project to refund such outstanding bonds in whole or in part, such board of viewers is hereby authorized to refund all or part of such outstanding bonds by the issuance of the negotiable refunding bonds of such project.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-413. Maturity, interest and registration of refunding bonds.

The refunding bonds so authorized shall mature at one time or in installments, not more than forty years from their date, shall bear interest at not to exceed six percent per annum, may be made callable on any interest payment date and may be made registerable as to principal, all as provided in the resolution of the board of viewers authorizing the issuance thereof.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-414. Sale or exchange of refunding bonds.

The board of viewers may provide for the exchange of the refunding bonds for a like or greater par amount of the bonds to be refunded, or may provide for the sale of such refunding bonds and the application of the proceeds of the sale thereof to the retirement of the bonds to be refunded.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-415. How refunding bonds sold.

If to be sold, such refunding bonds may be sold at public or private sale, as in the judgment of the board of viewers may seem best, provided that such refunding bonds may be sold below par only if a like par amount of the bonds to be refunded may be retired at a price correspondingly below par, it being the intent hereof that in no event shall there be issued an amount of refunding bonds larger than the par amount of bonds refunded thereby.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-416. Collection of assessments on retired bonds.

All uncollected assessments levied for payment of principal of and interest on bonds of such project refunded and retired by the issuance of refunding bonds hereunder may be continued in force, and the proceeds of the collection thereof pledged and applied to the payment of principal of and interest on the refunding bonds issued in lieu of such original bonds, and if the outstanding bonds are retired at less than their par value in such manner as to reduce the bonded indebtedness of the project the assessments theretofore levied for the payment of such indebtedness may in the discretion of the board of viewers be proportionately reduced.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-417. Additional assessments to pay principal and interest on refunding bonds.

If the proceeds of the assessments levied for the payment of the original bonds shall at any time prove insufficient to pay principal of and interest on such refunding bonds, or if it shall at any time appear to the board of viewers that there is likelihood of the insufficiency of such assessments, the board shall provide for the levy and collection of additional assessments sufficient for such purpose and the holder or holders of refunding bonds issued hereunder shall have a right of action to compel such levy in the manner provided in this chapter.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-418. Cancellation of assessments for retired bonds.

If the board of viewers deems it advisable it may, prior to the issuance of refunding bonds, order the cancellation of the assessments levied for the payment of the bonds refunded, except in so far as such assessments were levied for the payment of bonds not actually retired by the issuance of refunding bonds, and may direct the preparation of new assessment rolls and the levy and collection of new assessments sufficient for the payment of principal of and interest on such refunding bonds.

1934, p. 4; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-419. Preparation of assessment rolls when additional assessments made.

In the event new or additional assessments are levied pursuant to the provisions of the two preceding sections, such rolls shall be prepared and such assessments shall be levied in all respects as provided by the provisions of this chapter for the preparation of the original rolls and levy of the original assessments.

1934, p. 5; Michie Code 1942, § 1777a.

§ 21-420. How additional assessments made.

If additional or new assessments are so levied, such assessments shall be made on the same basis as the original assessments, and shall be levied only after all persons interested shall have been given full hearing by the board of viewers on the question of benefits and any other question on which they shall desire to be heard. Notice of such hearing shall be given by publication once a week for two consecutive weeks in a newspaper of general circulation published in a county in which such project is located in whole or in part, and the determination of the board of viewers shall be final.

1934, p. 5; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-421. Law applicable to original bonds applies to refunding bonds.

Except as herein otherwise provided, refunding bonds issued hereunder shall be authorized and issued in the manner provided in this chapter for the authorization and issuance of other bonds of such drainage project, and except as above provided no notice or hearing of any kind shall be necessary to the authorization, sale or issuance of such refunding bonds or to the readjustment of assessments or levy additional or new assessments as herein provided, and it shall not be necessary that any orders or resolutions of the board of viewers incident thereto have court approval.

1934, p. 5; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-422. Contracts with United States as to refunding.

Any drainage project desiring to refund all or part of its outstanding bonds pursuant to the provisions of this section is authorized to enter into contracts and agreements with the United States government or with any subdivision or agency thereof for the purpose of securing the aid of the United States or such subdivision or agency of the United States, and to do all things and make all agreements reasonably required by the United States or by such subdivision or agency of the United States in order to accomplish such refunding.

1934, p. 5; Michie Code 1942, § 1777a; 1954, c. 642.

§ 21-423. Compensation and expenses.

Any engineer employed under the provisions of this chapter shall receive such compensation as is commensurate with the relative area and importance of the proposed project. The amount when decided upon by the judge of the court, after conferring with the engineer, shall be entered as an order of record in the drainage record. The viewers, other than the engineer, shall receive five dollars per day each. The transitmen, rodmen, chainmen, axemen, and other laborers shall receive wages not to exceed the wages current at the time in the locality for such services. The members of the board of viewers shall receive, from time to time, out of the respective drainage project funds, such compensation as the court shall determine to be reasonable for the time expended and services performed by them on each project. All other fees and costs incurred under the provisions of this chapter shall be the same, as provided by law for like services in other cases, or as fixed by the court if not provided by law. The costs and expenses shall be paid by order of the court out of the proper project drainage fund provided for that purpose, and the board of viewers shall issue warrants therefor when funds of a

drainage project, for which service shall have been rendered, shall be in the hands of the treasurer or treasurers.

Code 1919, § 1778; 1924, p. 707; 1926, p. 627; 1954, c. 642.

§ 21-424. Defects in the proceedings; construction of chapter.

The provisions of this chapter shall be liberally construed to promote the leveeing, ditching, draining, and reclamation of wet and overflowed lands. The collection of the assessment shall not be defeated where the proper notices have been given by reason of any defect in the proceedings occurring prior to the order of the court confirming the final report of the board of viewers; but such order or orders shall be conclusive and final that all prior proceedings were regular and according to law, unless they were appealed from. If, on appeal, the court shall deem it just and proper to release any person or to modify his assessment or liability, it shall in no manner affect the rights and liabilities of any person other than the appellant, and the failure to perfect an appeal within sixty days from the order of the court finally establishing the project shall be a waiver of any illegality in the proceedings, and the remedies provided for in this chapter shall exclude all other remedies.

Proceedings under this chapter shall have precedence over all others excepting writs of habeas corpus, prohibition, and mandamus and shall be heard at the time set for a hearing by the court or the judge thereof in vacation with the least possible delay. The widest latitude shall be allowed by the court to hasten urgent cases, where evidence is available to prove the serious consequences resulting from the flooding of the cultivated lands for which relief is asked.

Code 1919, § 1779; 1926, p. 627; 1954, c. 642.

§ 21-425. Removal of engineers, viewers, etc.

Any engineer, viewer, superintendent of construction or other person appointed under this chapter may be removed by the court upon petition, for corruption, neglect of duties or other good and satisfactory cause shown, but not until such person or persons are heard in their own defense by the court.

Code 1919, § 1780; 1926, p. 628.

§ 21-426. Appropriation of county funds.

The governing body of any county in which is located in whole or in part any legally established drainage project may, in its discretion, appropriate and pay out of the funds of such county accruing from the general county levy, to such drainage project, such sum of money as it may deem proper, for application on the bonded or other indebtedness or for any other legitimate purpose of such drainage project. The board of viewers of any such drainage project in such county may accept and receive any and all moneys so appropriated and use the same, in their discretion, for any of the purposes hereinabove mentioned.

In lieu of such appropriation, the governing body of any such county may appropriate and pay out of the funds of such county accruing from the general county levy to the holders of any bonds, notes or other obligations of any legally established drainage project located in whole or in part in such county,

such sum of money as the governing body may deem proper for the acquisition and purchase for and on behalf of the county, of all or any of such bonds, notes and other obligations; and the governing body of any such county may also invest moneys, or any part thereof, credited to any sinking fund of the county or of any project thereof, in, and with such moneys to purchase for any such sinking fund, bonds, notes and other obligations of any such legally established drainage project located in whole or in part in such county, provided no such moneys shall be invested in any such bonds, notes or other obligations issued prior to January 1, 1928. The governing body of any such county may, in consideration of additional levies or assessments heretofore or hereafter made against the real estate located in such drainage project, release any or all of such real estate from the lien or liens of any or all drainage taxes heretofore or hereafter assessed against such real estate, provided that the drainage bonds of such project or projects are owned and held solely by any such county.

1938, p. 795; 1940, p. 625; 1942, p. 697; Michie Code 1942, § 2734b; 1954, c. 642.

Chapter 7 - PUBLIC FACILITIES DISTRICT LAWS

§ 21-427. Public facilities district law for certain counties.

Chapter 93 of the Acts of 1946, as amended by Chapter 363 of Acts 1952, relating to public facilities district law applicable in counties having a population of between 500 and 1,000 inhabitants per square mile and a land area of between thirty and seventy square miles, or of any county having a land area of between thirty and eighty-five square miles, is continued in effect.

§ 21-427.1. City public facilities district law.

Chapter 414 of the Acts of 1956, relating to public facilities district law applicable to cities having a population of more than 50,000 but less than 61,000 and a land area of less than seventy square miles but more than fifty square miles, is incorporated in this Code by this reference.

Chapter 8 - PROCEEDINGS TO ACQUIRE DRAINAGE RIGHTS

§ 21-428. Right to drain land through lands of others.

Any person desiring to drain his lands through the lands of others may apply to the circuit court of the county or corporation court of the city in which the whole or a part of the last mentioned lands lie, for the appointment of commissioners to ascertain and report upon the propriety of granting such application and the damages that may be sustained by the party or parties through whose lands the drain is proposed to be run. Notice of such application shall be given to the proprietors of the lands through which such drain is to be run in the manner prescribed by Article 2 (§§ [25.1-205](#) et seq.) of Chapter 2 of Title 25.1.

Code 1919, § 5293.

§ 21-429. Damages to be ascertained by commissioners; notice to be given.

If the court, on hearing the matter, thinks it proper, it shall issue its order appointing five commissioners, who shall be freeholders, any three of whom may act, who shall, on being served with a copy of the order, go upon the land, and after being duly sworn, ascertain and report what damages, if

any, may be sustained by the party or parties through whose lands the drain is to be run; but the commissioners, before proceeding to execute the order, shall give to the parties interested, and to the tenants in possession, at least ten days' notice of the time appointed by them for the execution of the same in the manner prescribed by § [21-428](#).

Code 1919, § 5294.

§ 21-430. Mode of draining to be described.

The commissioners shall also inquire and report whether the mode of draining his land proposed by the applicant be proper and shall describe the same specifically.

Code 1919, § 5295.

§ 21-431. Payment of damages and costs.

If the leave prayed for be granted by the court, it shall be made a matter of record and the applicant shall, before he proceeds therein, pay or secure to the satisfaction of the parties entitled thereto the compensation, if any, ascertained by the commissioners and all the costs of the proceeding, including the sum of two dollars per day to each of the commissioners for each day that they may be engaged in executing the order aforesaid. And he shall make and keep open such cut, drain or culvert as he is allowed to make, at his own expense.

Code 1919, § 5296.

§ 21-432. Construction of culverts, etc., under mill canals.

This chapter shall be so construed as to authorize the court therein named to allow owners of lands desirous of draining the same the right to construct trunks or culverts under the beds of mill canals in cases where the same may be necessary, subject to the same regulations and provisions as are prescribed herein in regard to the draining of lands through the lands of others; provided, that such trunks or culverts shall be so located and arranged as not to obstruct or interfere with the passage of the water through such canals.

Code 1919, § 5297.