

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

SENATE BILL NO. 334  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Roem)

*A BILL to amend and reenact §§ 15.2-1800, 15.2-1813, and 15.2-2109 of the Code of Virginia, relating to conveyances of interests in real property; public hearing required.*

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

**1. That §§ 15.2-1800, 15.2-1813, and 15.2-2109 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-1800. Purchase, sale, use, etc., of real property.**

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (§ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in, or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, *except as otherwise required in subsection C*, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision, or authority of the Commonwealth or (ii) conveyance of site development easements, or utility easements related to transportation projects, across public property, including, but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22.

C. *No locality shall sell, at public or private sale, exchange, lease as lessor, mortgage, pledge,*

33 subordinate interest in, or otherwise dispose of any permanent easements or rights-of-way for the  
34 construction of (i) new electric transmission or distribution facilities of more than 69 kilovolts, (ii) data  
35 center operations or supporting electric transmission or distribution facilities of more than 69 kilovolts, or  
36 (iii) any commercial or industrial facility that requires electric service through electric transmission or  
37 distribution facilities described in clause (i), unless a public hearing is first held in accordance with the  
38 notice and hearing requirements set forth in § 15.2-2204. No provision of this subdivision shall apply to the  
39 disposition of an easement or right-of-way for the purpose of maintenance or replacement of existing  
40 facilities.

41 Such public hearing shall include a disclosure of the proposed use, any anticipated impacts to the  
42 community and environment, and any alternative locations considered by the governing body. No vote on any  
43 action intended to dispose of any real property interest may be taken until a public hearing has been held.

44 D. A city or town may also acquire real property for a public use outside its boundaries; a county may  
45 acquire real property for a public use outside its boundaries when expressly authorized by law.

46 ~~D.~~ E. A locality may construct, insure, and equip buildings, structures, and other improvements on real  
47 property owned or leased by it.

48 ~~E.~~ F. A locality may operate, maintain, and regulate the use of its real property or may contract with other  
49 persons to do so.

50 Notwithstanding any contrary provision of law, general or special, no locality providing access and  
51 opportunity to use its real property, whether improved or unimproved, may deny equal access or a fair  
52 opportunity to use such real property to, or otherwise discriminate against, the Boy Scouts of America or the  
53 Girl Scouts of the USA. Nothing in this paragraph shall be construed to require any locality to sponsor the  
54 Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from local policies  
55 governing access to and use of a locality's real property. The provisions of this paragraph applicable to a  
56 locality shall also apply equally to any local governmental entity, including a department, agency, or  
57 authority.

58 ~~F.~~ G. This section shall not be construed to deprive the resident judge or judges of the right to control the  
59 use of the courthouse.

60 ~~G.~~ H. "Public use" as used in this section shall have the same meaning as in § 1-219.1.

61 **§ 15.2-1813. Notice when public hearing required.**

62 ~~Any~~ Except as otherwise provided, any public hearing required by this chapter shall be advertised once in  
63 a newspaper having general circulation in the locality at least seven days prior to the date set for the hearing.

64        § 15.2-2109. Powers of localities as to public utilities and computer services; prevention of pollution  
65 of certain water.

66        A. Any locality may (i) acquire or otherwise obtain control of or (ii) establish, maintain, operate, extend,  
67 and enlarge: waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass  
68 transportation systems, stormwater management systems, and other public utilities within or outside the limits  
69 of the locality and may acquire within or outside its limits in accordance with § 15.2-1800 whatever land may  
70 be necessary for acquiring, locating, establishing, maintaining, operating, extending, or enlarging  
71 waterworks, sewerage, gas works (natural or manufactured), electric plants, public mass transportation  
72 systems, stormwater management systems, and other public utilities, and the rights-of-way, rails, pipes, poles,  
73 conduits, or wires connected therewith, or any of the fixtures or appurtenances thereof. As required by  
74 subsection *C D* of § 15.2-1800, this section expressly authorizes a county to acquire real property for a public  
75 use outside its boundaries.

76        The locality may also prevent the pollution of water and injury to waterworks for which purpose its  
77 jurisdiction shall extend to five miles beyond the locality. It may make, erect, and construct, within or near its  
78 boundaries, drains, sewers, and public ducts and acquire within or outside the locality in accordance with  
79 § 15.2-1800 so much land as may be necessary to make, erect, construct, operate, and maintain any of the  
80 works or plants mentioned in this section.

81        In the exercise of the powers granted by this section, localities shall be subject to the provisions of  
82 § 25.1-102 to the same extent as are corporations. The provisions of this section shall not be construed to  
83 confer upon any locality the power of eminent domain with respect to any public utility owned or operated by  
84 any other political subdivision of this Commonwealth. The provisions of this section shall not be construed to  
85 exempt localities from the provisions of Chapters 20 (§ 46.2-2000 et seq.), 22 (§ 46.2-2200 et seq.), and 23  
86 (§ 46.2-2300 et seq.) of Title 46.2.

87        B. A locality may not (i) acquire all of a public utility's facilities, equipment, or appurtenances for the  
88 production, transmission, or distribution of natural or manufactured gas, or of electric power, within the limits  
89 of such locality or (ii) take over or displace, in whole or in part, the utility services provided by such gas or  
90 electric public utility to customers within the limits of such locality until after the acquisition is authorized by  
91 a majority of the voters voting in a referendum held in accordance with the provisions of Article 5  
92 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 in such locality on the question of whether or not such  
93 facilities, equipment, or appurtenances should be acquired or such services should be taken over or displaced;  
94 however, the provisions of this subsection shall not apply to the use of energy generated from landfill gas in

95 the City of Lynchburg or Fairfax County. In no event, however, shall a locality be required to hold a  
96 referendum in order to provide gas or electric service to its own facilities. Notwithstanding any provision of  
97 this subsection, a locality may acquire public utility facilities or provide services to customers of a public  
98 utility with the consent of the public utility. No city or town ~~which~~ *that* provided electric service as of  
99 January 1, 1994, shall be required to hold such a referendum prior to the acquisition of a public utility's  
100 facilities, equipment, or appurtenances used for the production, transmission, or distribution of electric power  
101 or to the provision of services to customers of a public utility. Nothing in this subsection shall be deemed to  
102 (a) create a property right or property interest or (b) affect or impair any existing property right or property  
103 interest of a public utility.

104 C. The City of Bristol is authorized to provide computer services as defined in § 18.2-152.2. "Computer  
105 services" as used in this section shall specifically not include the communications link between the host  
106 computer and any person or entity other than (i) such locality's departments, offices, boards, commissions,  
107 agencies, or other governmental divisions or entities or (ii) an adjoining locality's departments, offices,  
108 boards, commissions, agencies, or other governmental divisions or entities.