

August 27, 2020

Memorandum #2020-103

TO: Hampton Roads Chief Administrative Officers

BY: Mary Bunting, Chair

RE: Hampton Roads Chief Administrative Officers Meeting – September 2, 2020

A meeting of the Hampton Roads Chief Administrative Officers will be held Wednesday, September 2, 2020, beginning at 11:30 AM. The agenda and related materials are attached.

Pursuant to the declared state of emergency in the Commonwealth of Virginia in response to the COVID-19 pandemic and to protect the public health and safety of the Committee members, staff, and the general public, the CAO Committee meeting will be held via conference call. Participants may join the meeting by calling 1-855-797-1799; there is no passcode.

RAC/ka

Attachments

Chief Administrative Officers:

Mary Bunting, HA
Patrick Duhaney, VB
Brent Fedors, GL
Chip Filer, NO
Amanda Jarratt, FR
Michael Johnson, SH
Randy Keaton, IW
Neil Morgan, YK
Lydia Pettis-Patton, PO

Chris Price, CH
Patrick Roberts, SU
Cynthia Rohlf, NN
Melissa Rollins, SY
William Saunders, WN
Michael Stallings, SM
Scott Stevens, JC
Andrew Trivette, WM
Randy Wheeler, PQ

**Hampton Roads
Chief Administrative Officers (CAO) Meeting**

**WEDNESDAY, SEPTEMBER 2, 2020
11:30 AM**

Pursuant to the declared state of emergency in the Commonwealth of Virginia in response to the COVID-19 pandemic and to protect the public health and safety of the committee members, staff, and general public, the Chief Administrative Officers Committee meeting will be held via conference call. The call-in number is 1-855-797-1799; there is no passcode.

I. Call to Order

II. Approval of Agenda

III. Approval of Minutes

The Summary Minutes from the August 5, 2020 CAO Committee meeting are attached for the Committee's consideration and approval.

IV. Public Comment

Members of the public will be provided an opportunity to address the CAO Committee. Comments should be limited to three minutes per speaker.

V. Locality Roll Call Topics

HRPDC staff will introduce the following items for consideration by the CAO Committee:

- Senate Bill 5118 Emergency Debt Repayment Plan: the following information is attached:
 - A copy of SB 5118
 - Comments on the Bill from Virginia Beach staff
 - Comments from Mission H2O
- Status of Locality Plans for Holiday Parades
- President's Memoranda on Deferring Payroll Tax Obligations
- General Assembly Special Session and Related Bills – any issues of interest from localities

Following staff's introduction of these items, a locality roll call will occur where each CAO will be provided an opportunity to provide comments and input on these topics.

VI. Other Business

VII. Adjournment

**Hampton Roads Planning District Commission (HRPDC)
Chief Administrative Officers Meeting
Summary Minutes of August 5, 2020**

The Chief Administrative Officers (CAO) Committee Meeting was called to order at 11:30 a.m. by Mary Bunting, CAO Committee Chair and Hampton City Manager. Ms. Bunting and Mr. Crum noted that pursuant to the declared state of emergency in the Commonwealth of Virginia in response to the COVID-19 pandemic, and to protect the public health, safety and welfare of the Committee members, staff and the general public, today's CAO Committee meeting is being held electronically via WebEx. Mr. Crum noted that both the WebEx access information as well as a call-in number were published with the agenda for use by Committee members and the general public to access today's meeting.

The following members of the CAO Committee were in attendance:

Alan Archer (for Cynthia Rolf)	Newport News
Mary Bunting	Hampton
Patrick Duhaney	Virginia Beach
Brent Fedors	Gloucester County
Dr. Larry Filer	Norfolk
Amanda Jarrett	Franklin
Randy Keaton	Isle of Wight County
Neil Morgan	York County
Tonya O'Connell (for Randy Wheeler)	Poquoson
Dr. Lydia Pettis Patton	Portsmouth
Chris Price	Chesapeake
Patrick Roberts	Suffolk
Michael Stallings	Smithfield
Scott Stevens	James City County
Andrew Trivette	Williamsburg

Others in Attendance

Robert Crum	HRPDC/HRTPO
Keith Cannady	HRPDC
Doug Smith	Hampton Roads Alliance
Diane Kaufman	Senator Tim Kaine's Office
Drew Lumpkin	Senator Mark Warner's Office

Ms. Bunting thanked everyone for their continued attendance and participation at the CAO Committee meetings, especially during this COVID-19 pandemic environment.

Approval of Agenda

Ms. Bunting asked if there were any additions or revisions to the agenda. She noted that a few CAOs had indicated that they may have to depart today's call before it concludes. As a result, Ms. Bunting suggested that we reorder today's agenda and discuss the CARES Act Funds agenda item first. There being no objections, the agenda was approved with the reordering of the agenda items.

Public Comment Period

There were no public comments.

CARES Act Funds

Mr. Crum reported that several CAOs have expressed an interest in having a more detailed discussion to share information on each locality's plans for the use of CARES Act funds in their localities. Ms. Bunting asked Mr. Crum to conduct a roll call of the CAO Committee to receive this input. Mr. Crum proceeded with the roll call and each of the 15 CAOs, or their representatives in attendance, provided information on plans in their localities for the use of this federal money. Common themes included the use of these funds for deep cleaning/disinfection of public buildings, purchase of Personal Protection Equipment, and expenditures around technology to support a telework environment.

Discussion also occurred around guidelines that state "funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency." This language indicates that "as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise." The CAO Committee discussed these provisions, and agreed to appoint Finance and Budget representatives from their localities to a working group to research this issue. Ms. Tonya O'Connell from the City of Poquoson agreed to coordinate this group.

757 Recovery and Resilience Effort

Mr. Doug Smith, President and CEO of the Hampton Roads Alliance, provided a presentation on the 757 Recovery and Resilience Action Framework that is being led by the Alliance. His overview provided information on how communities are responding to the COVID-19 crisis and a review of regional momentum that was building prior to the pandemic. He noted that the old narrative that the Hampton Roads region - 757 - does not collaborate or cooperate regionally is simply not true anymore, noting a number of regional efforts that have occurred in the region over the past several years. He noted that one of

the goals of the 757 Recovery and Resilience Effort is to continue to build on this regional momentum.

Mr. Smith proceeded to review more information on the 757 Business Recovery and Resilience Action Framework. He discussed the following goals of this effort:

- Enhance our region’s future economic and community resilience
- Ensure that everyone can recover and thrive in the 757’s post-COVID-19 economy
 - Apply a diverse, equitable and inclusive lens to the framework’s goals, objectives, strategies, programs and performance measurement tracking and reporting
 - Reactivate the momentum in our economy
 - Articulate what we want for the 757’s post-COVID economy
 - Identify and accelerate emergency market opportunities to grow jobs and economic prosperity
 - Identify ways we can become more effective and efficient as leaders and organizations in advancing our region
 - Create a new shared sense of a regional economy – vision, goals, responsibilities and accountability
 - Accelerate even greater region-wide cooperation
 - Restore our employment base to pre-COVID-19 levels and lay the groundwork for growth and expansion

Mr. Smith discussed a series of 757 Thought Leader videos that were being created as part of this effort, noting that HRPDC/HRTPO Executive Director Crum participated in one of the videos. He also noted there were 10 working committees created to generate strategies around important topics for the regional economy. He noted that all committee work, related minutes, reports, ongoing discussions and outputs will be supported by the 757recovery.com web site. He also summarized the various business surveys which were completed to collect information to guide this effort. He concluded by reviewing the schedule and timing for the various deliverables that will be generated by this effort.

Ms. Bunting noted that as chair of the CAO Committee, she is a member of the Hampton Roads Alliance Board. She wanted to stress that the new Alliance is in a completely different place than it was just two years ago. She reviewed the significant effort that was

completed to restructure the Alliance and believes that effort is beginning to pay dividends. She commended Mr. Smith and the Alliance for their work to re-energize the Organization.

Other Business

Ms. Bunting asked CAO Committee members if they had other items for discussion. Mr. Stevens referenced Mr. Crum's comments from earlier in the meeting that the COVID-19 pandemic has created unexpected expenses for the HRPDC/HRTPO. He noted that he was interested in learning more about these expenses to determine if the localities could provide any support. Ms. Bunting agreed, and asked Mr. Crum to develop some background information on these unbudgeted expenses that could be shared with the CAOs.

Ms. Bunting also reminded Committee members that the CAOs will continue to meet remotely the first Wednesday of each month. She noted that we will retain the option of contacting Mr. Crum should there be a need for a conference call.

Adjournment

There being no further business to come before the CAO Committee, the meeting was adjourned at approximately 1:30 pm.

Respectfully submitted,

Robert Crum
Recording Secretary

SENATE BILL NO. 5118

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor

on _____)

(Patron Prior to Substitute--Senator McClellan)

A BILL to require certain utilities to develop an Emergency Debt Repayment Plan.

Be it enacted by the General Assembly of Virginia:

1. § 1. Notwithstanding any other provision of law, every utility providing electric, gas, or water or wastewater service ("utility") shall develop an Emergency Debt Repayment Plan (EDRP) for arrearages accrued during a state of emergency or service disconnection moratorium as defined herein by residential customers. Utilities may collaborate or partner with third-party organizations, institutions, or agencies for the purpose of successful compliance and implementation of its EDRP.

An EDRP shall be designed to ensure that debt accrued during the state of emergency or the service disconnection moratorium, in addition to the residential customer's regular utility bill, are sustainable and affordable for the residential customer and shall allow for (i) an up to 24-month repayment period and (ii) a residential customer to roll over remaining debt with any debt accrued under a subsequent state of emergency. A utility shall not require any new deposit or application fee or any other new type of advance payment before enrolling a residential customer in an EDRP and shall not charge any interest, finance charges, or prepayment penalties on the unpaid debt while the residential customer is enrolled in an EDRP. A utility shall coordinate its EDRP with any other relevant financial assistance programs, energy assistance and weatherization programs, or percentage of income payment programs. Nothing shall preclude a utility from including additional arrearages accrued by the residential customer not related to the state of emergency in an EDRP upon mutual agreement between the utility and the residential customer. Prior to disconnecting for nonpayment any residential customer who has an overdue balance accrued during the state of emergency of service disconnection moratorium, a utility shall work in collaboration with the residential customer to seek and apply any available resources that either reduce or

27 eliminate such accumulated balance or enroll the residential customer to repay the accumulated debt
28 through other available repayment programs offered by the utility or in which the utility participates for
29 its residential customers. If such repayment programs are not available to the residential customer or do
30 not afford the residential customer sustainable repayment options for that residential customer, then the
31 utility shall offer to enroll the residential customer into the EDRP.

32 Within 60 days after the effective date of this act, every utility shall provide its residential
33 customers, in the same manner the residential customer receives billing information, which may be by bill
34 insert or bill notice, with information detailing its EDRP. The utility shall not disconnect service for
35 nonpayment any residential customer enrolled in the plan provided that the residential customer remains
36 in compliance with the terms of the EDRP and remains current on the residential customer's current utility
37 bill as that bill may be due and payable. If a residential customer fails to pay in full the amounts due under
38 the EDRP, and the residential customer and the utility have not agreed to a modification of the terms of
39 the EDRP, nothing under this act shall prevent a new payment plan or from disconnecting service.
40 Payments under the EDRP shall not begin until after the earlier of (a) the expiration of the state of
41 emergency or (b) the end of the service disconnection moratorium, unless the utility and the residential
42 customer mutually agree to an earlier date for payments to begin.

43 Following the implementation of an EDRP, utilities shall submit a report to the State Corporation
44 Commission (the Commission) that contains the following anonymized information: (1) the number of
45 accounts remaining in the EDRP; (2) the total amount of and average of debt for accounts remaining in
46 the EDRP; (3) the number of accounts removed from the EDRP, categorized by reason; and (4) the amount
47 of and average of debt still remaining for accounts removed from the EDRP. The Commission shall
48 provide the chairs of the House Committees on Labor and Commerce and Appropriations and the Senate
49 Committees on Commerce and Labor and Finance and Appropriations an aggregated anonymized report
50 by utility type containing such compiled information within three months of the earlier of the expiration
51 of the state of emergency or the end of the service disconnection moratorium and annually thereafter for
52 the following two years.

53 Nothing in this act shall be construed to grant any additional jurisdiction or authority to the
54 Commission over any utilities not otherwise conferred by law.

55 § 2. As used in this act:

56 "Service disconnection moratorium" means that certain order of the State Corporation Commission
57 in Case Number PUR-2020-00048 issued on June 12, 2020, or any successor order.

58 "State of emergency" means the state of emergency declared by the Governor in Executive Order
59 51, as amended, or any successor state of emergency issued by the Governor pursuant to § 44-146.17 of
60 the Code of Virginia in response to the COVID-19 pandemic.

61 "Subsequent state of emergency order" means a future state of emergency issued by the Governor
62 pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health
63 threat as defined in § 44-146.16 of the Code of Virginia that is unrelated to the COVID-19 pandemic.

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SB5118-MCCLELLAN - Public utilities; Emergency Debt Repayment Plan

LINE #S	TOPIC	LANGUAGE	CONCERN/COMMENT	Comment from Virginia Beach Public Utilities
9 - 12	What utilities are required to develop an Emergency Debt Repayment Plan (EDRP) in SB5118	<ul style="list-style-type: none"> Notwithstanding any other provision of law, every utility providing electric, gas, or water service ("utility") shall develop an Emergency Debt Repayment Plan (EDRP) for residential customers. Utilities may collaborate or partner with third-party organizations, institutions, or agencies for the purpose of successful compliance and implementation of its EDRP. 	<ul style="list-style-type: none"> Many Municipal Utilities already have plans to assist citizens in need, and especially so during the COVID-10 Pandemic. Requiring localities that have also been negatively affected by the pandemic to accommodate the components of this legislation adds more burden to already hurting municipalities. 	<ul style="list-style-type: none"> We have a program specific to COVID-19 to assist customers who are unemployed, furloughed or laid off during the pandemic with up to 4 bill periods of assistance. The participation has not been widespread. In addition, we offer a Water Assistance Program that is targeted to customers who are eligible for other aid programs and we have not had significant increases in applications related to COVID. In fact, when we have a disconnection moratorium, customers stop pursuing aid for the most part. The legislation would be administratively burdensome both related to system modification requirements to support the various aspects of the legislation and related to the staffing requirements for administering the payment arrangements, additional customer service impacts, and reporting requirements. We are still severely impacted from the 5/31 event and this would negatively impact our ability to continue to recover our operations. HB5117 relates that the utility shall develop an EDRP for “arreages accrued during the state of emergency or service disconnection moratorium” for residential customers, but most of our delinquent customers have accrued those balances well before and unrelated to the pandemic. The customer would be subject to termination prior to COVID for those balances – what happens to that portion of the delinquent balance accrued? Our City and utility are under a hiring freeze and purchasing freeze in order to address revenue shortfalls that we are experiencing as a result of COVID already, which is affecting base services without adding additional programs to staff and fund.
13 - 27	Required Components of an EDRP	<ul style="list-style-type: none"> An EDRP shall be designed to ensure that debt repayments accrued during the state of emergency or the service disconnection moratorium, in addition to the customer's regular utility bill are sustainable and 	<ul style="list-style-type: none"> Some localities have requirements within their bond agreements that require collections for delinquent debt that the requirements of this legislation may affect Legislation is silent on what happens when a citizen does not pay and moves to another locality requesting new utility services and leaving delinquent payments behind. 	<ul style="list-style-type: none"> VBPU has these requirements in our bond covenants that assure bondholders that we consistently and diligently performing collections in accordance with our strenuous procedures, for which service termination is the key and most effective means. Our ability to collect a debt is subject to a statute of limitations from the time of the service bill date, which

		<p>affordable for the customer and shall allow for:</p> <ul style="list-style-type: none"> ○ An up to 24-month repayment period ○ A customer to roll over remaining debt with any debt accrued under a subsequent state of emergency ○ Minimum monthly payments that do not exceed for accrued debt, per utility, \$ 45.50 ○ OR, at the option of the utility, four percent (4%) of the customer's household income provided the utility or a third-party verifies the customer's income in a manner consistent with any applicable state or federal privacy laws. <ul style="list-style-type: none"> ● A utility SHALL NOT: <ul style="list-style-type: none"> ○ Require any deposit or application fee or any other type of advance payment before enrolling a customer in an EDRP ○ Charge any interest, finance charges. ○ Charge prepayment penalties on the unpaid debt while the customer is enrolled in an EDRP. ● A utility shall: <ul style="list-style-type: none"> ○ Coordinate its EDRP with any other relevant <ul style="list-style-type: none"> ▪ Financial assistance programs, ▪ Energy assistance and weatherization 	<ul style="list-style-type: none"> ● There is no requirement of the customer to prove debt is due to the COVID-19 health crisis, nor any criteria for what would constitute appropriate proof. ● There is no apparent relief in the legislation for the utilities for those delinquent debts that began accruing prior to the COVID-19 health crisis. <ul style="list-style-type: none"> ● Language in the proposed legislation states that a utility shall coordinate its EDRP with "...ANY other relevant..." financial, weatherization and PIPP programs ● There is no definition of "relevant" ● Language requires the utility to assume responsibility for knowledge of all programs and organization in Virginia ● Language does not establish requirements for the customer regarding the length of time in which a customer may take to find alternative debt mitigation plans before being enrolled in an ERDP 	<p>varies for the type of utility, but we have 5 years to collect that debt. We would lose up to 24 months of collections time under this program and the ability to collect diminishes if service termination is not available and with any extension of the time to begin collections.</p> <ul style="list-style-type: none"> ● We have significant experience and can provide data related to the elimination of service termination rather than specifically COVID related financial impacts. We discontinued delinquency related service terminations after 5/31 due to staffing limitations and our delinquency rate increased significantly. We got significant complaints from customers about us allowing their bills to get so high without terminating service. Second, we are offering a COVID related relief program that is not subject to income requirements but available to anyone who has lost their employment after the pandemic began and the participation is fairly limited. ● This repayment cap and time assume that customers would be able to pay back the accrued debt within the 24 month period at the cap amount; that is not the case for the average customer who was already carrying a delinquent balance prior to the start of the pandemic. Some of our customers would have a payment plan that extended beyond our collection period (5 years) if the cap is imposed. We also do not have staff (nor does our Human Services Department) to administer a verification of need or income. ● In our long-term coordination with our Human Services Department for our Water Assistance Program (since 2008), we have been able to determine that there are no existing programs available from federal or state HS agencies to provide assistance to maintain water services similar to the energy assistance programs available for heating and cooling. Deferrals do not assist customers with affordability of the services and we have seen that the payment arrangements make it difficult for customers to keep up with their charges as the debt continues to accrue with current charges billed monthly. Providing a permanent, consistent program similar to those for energy assistance would be a better focus for legislation for addressing affordability overall. ● We offer other assistance, including limited options for payment arrangements, but our payment arrangements
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		<ul style="list-style-type: none"> ▪ Percentage of income payment programs <ul style="list-style-type: none"> • A utility shall not: <ul style="list-style-type: none"> ○ Enroll a customer in an EDRP until after all other reasonably known available methods of debt mitigation or other deferred payment plans are exhausted ○ Enroll a customer in an EDRP until after all efforts do not result in providing a sustainable and affordable payment plan for the customer. 		<p>require a good-faith payment upfront to obtain an arrangement for up to 6 months. However, most of our customers who are struggling to pay their bill are ultimately unable to keep up with an arrangement because they must continue to pay their current charges plus the agreed-upon back payment amount. The \$45.50 amount is less than half of our typical monthly household bill for 4 services provided through our bill. Those customers won't make progress on being behind on the bill. The current default rate for our payment arrangements is > 70%.</p>
28 - 40	<p>Notification requirements of the utility to residential customers of EDRP</p> <p>Requirement of utility to assist delinquent customers to enroll in EDRP</p> <p>Disconnecting a customer</p>	<ul style="list-style-type: none"> • Within 60 days after the effective date of this act, every utility shall provide its residential customers: <ul style="list-style-type: none"> ○ In the same manner the customer receives billing information, which may be by bill insert or bill notice ○ Information detailing its EDRP including eligibility and enrollment information. • Prior to disconnecting for nonpayment any customer who has an overdue balance accumulated during the state of emergency or service disconnection moratorium, a utility shall: <ul style="list-style-type: none"> ○ Offer to enroll the customer into the EDRP • The utility shall not disconnect service: <ul style="list-style-type: none"> ○ For any customer enrolled in 	<ul style="list-style-type: none"> • The proposed legislation requires utilities, who are already working with customers who have delinquent debt to spend more resources to send a bill insert for those customers who do not receive bills electronically. • The proposed legislation does not consider any past due balances accumulated prior to the state of emergency, which could have been considerable prior to the health crisis. 	<ul style="list-style-type: none"> • Sixty days would be insufficient to address required system programming changes, as well as develop procedures and hire staff that would be necessary to manage this additional regulatory requirement. In addition, we are working on a 14+ year old version of our billing system and are in the middle of an upgrade effort that is due to go live next July. In addition to the cost, this would be very complex to manage from a system and staffing perspective. • The nature of handling payment arrangements in our billing system requires essentially manual handling of each arrangement for billing and payment purposes. They have to be reestablished each time a customer is billed or payment is made because new charges are introduced. This is very labor intensive to manage, which is why we severely limit them after the change in the delinquency rule by the state and we transitioned to monthly billing. Each customer has 90 days to pay a balance without penalty even when we are doing disconnections. • This section again references “accumulated during the state of emergency;” however, the vast majority of our customers who are delinquent today had delinquent balances unrelated to the pandemic.

	<p>Failure of customer to pay under EDRP</p> <p>Timing of required payments under EDRP</p>	<p>the plan provided the customer remains in compliance with the terms of the EDRP</p> <ul style="list-style-type: none"> ○ Remains current on the customer's current utility bill as that bill may be due and payable ● If a customer fails to pay in full the amounts due under the EDRP, and the customer and the utility have not agreed to a modification of the terms of the EDRP, nothing under this section shall prevent: <ul style="list-style-type: none"> ○ A new payment plan ○ Or disconnecting service. ● Payments under the EDRP shall not begin until after the earlier of: <ul style="list-style-type: none"> ○ The expiration of the state of emergency ○ The end of the service disconnection moratorium ● The utility and the customer may mutually agree to an earlier date for payments to begin 		
41 – 50	Reporting requirements of the utility to the Commission	<ul style="list-style-type: none"> ● Following the implementation of an EDRP, each utility shall submit a report to the Commission that contains the following anonymized information: <ul style="list-style-type: none"> ○ The number of accounts remaining in the EDRP ○ The total amount of and average of debt for accounts remaining in the EDRP ○ The number of accounts removed from the EDRP, categorized by 	<ul style="list-style-type: none"> ● Many municipal utilities' accounting programs must be reprogramed to address the required reporting 	<ul style="list-style-type: none"> ● The reporting required in this section would necessitate significant system programming and staff with skillsets to manage and perform the reporting. Account changes occur daily related to payments. We have a large customer base (over 130,000 water customers) and a significant impact of reporting arrangements and defaults. In addition, most of our customers would have pre-COVID and post-COVID debts that would make it cumbersome to spilt out customer-by-customer, much less overall. The bad-debt write off occurs 5 years after the debt was incurred; this is not something that could even be reported right away. We record payments as revenues paying current charges and not as debts; however, the costs associated with this program and the lost revenue will have to be made up at some point by increased rates and charges to other paying customers.

	Reporting requirements of the Commission to the General Assembly	<p>reason</p> <ul style="list-style-type: none"> ○ The amount of and average of debt still remaining for accounts removed from the EDRP ○ The utility's anticipated bad debt write-off from the EDRP compared with any non-EDRP bad debt write-off. <ul style="list-style-type: none"> ● The Commission shall provide the chairs of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations: <ul style="list-style-type: none"> ○ An aggregated anonymized report by utility type ○ Containing such compiled information ○ Within three months of the expiration of the state of emergency ○ Annually thereafter for the following two years. 		<ul style="list-style-type: none"> ● This legislation would also require us to report this information to the SCC when we are not subject to the oversight of the SCC as a municipal entity. ● Currently, our debt collections are completed by our City Treasurer. In this case, the Treasurer would be performing set of debt collection during a specified period for say personal property tax but not allowed to collect on behalf of utilities at the same time. This will increase costs of collections for the utility as well, in addition to impacting the overall collection from the delay in beginning collection efforts and with the implications from the statute of limitations.
51 - 52	Accounting by utility of recaptured debt	Debt recovered by an EDRP shall not be recognized as an asset for regulatory purposes and any associated costs shall not be recoverable through base rates or a rate adjustment clause		<ul style="list-style-type: none"> ● We record payments as revenues paying current charges and not as debts; however, the costs associated with this program and the lost revenue will have to be made up at some point by increased rates and charges to other paying customers. The only other alternative would be to reduce services provided by the lost revenue amount.
53 - 58	Utility exceptions to legislation	Except for any express modifications stated in this act, nothing in this act shall affect any orders of		

		the Commission, including the order of the Commission in Case Number PUR-2020-00074 issued on April 29, 2020, regarding the establishment of regulatory assets of utility accounting matters to track or potentially recover costs associated with aged accounts receivable under the service disconnection moratorium or other Covid-19 related expenses, nor shall this act affect any non-EDRP rate recovery issues, including late fees associated with aged accounts receivable due to the COVID-19 pandemic		
59 - 62	Utility relief and exemption from the service disconnection moratorium Limiting Commission jurisdiction	Any utility subject to regulation by the Commission may petition the Commission for relief and exemption from the service disconnection moratorium and to resume normal disconnections at any time. Nothing in this act shall be construed to grant any additional jurisdiction or authority to the Commission over any utilities not otherwise conferred by law.		We are not governed by the SCC. If it does not grant authority to the SCC for oversight over jurisdictions, does this not apply to municipal water agencies?
64 – 65	Definition: Service Disconnection Moratorium	"Service disconnection moratorium" means that certain order of the State Corporation Commission in Case Number PUR-2020-00048 issued on June 12, 2020, or any successor order		
66 - 68	Definition: State of Emergency	"State of emergency" means the Executive Order 51, as amended, or any successor state of		

Mission H2O Comments

The HRPDC Directors of Utilities Committee participates in Mission H2O, an advocacy group for the water sector. Mission H2O developed the following comments based on input from utilities across the state.

Mission H2O members recognize the impact that COVID-19 and related restrictions have had on Virginia's economy and Virginia's citizens, particularly residential customers of drinking water providers. Our members that are drinking water providers have already been actively working with their impacted customers to develop creative, flexible repayment programs and to implement moratoriums on service disconnection. These programs build on previously existing programs aimed at assisting lower income customers with maintaining water service. One of the primary concerns our members have about SB 5118 is that it undermines these existing programs, and instead forces an after-the-fact, one-size-fits-all approach that will be burdensome, confusing and time consuming to implement.

Following are our more specific comments on SB 5118:

- As noted above, many drinking water providers have already implemented moratoriums on disconnection and debt repayment programs. There is no evidence of the need for this legislation.
- The requirements of SB 5118 will be tremendously burdensome, particularly on smaller municipal water providers. The bill unfairly treats all utilities the same regardless of the many nuances that require flexibility such as the size and sophistication of the utility.
- The legislation fails to consider the fact that municipal bill paying systems vary. Some bill on a bi-monthly or quarterly basis; some billing is done in conjunction with wastewater service and waste collection services; some billing is administered through authorities or across jurisdictions. For these reasons, the one-size-fits all approach is not workable for many municipal water providers.
- The CARES Act provides financial support to individuals who are delinquent in their utilities bill (water, sewer, electric etc.) due to COVID issues. In addition to not considering the debt repayment programs that many municipal water providers have already implemented, this legislation does not recognize the existence of the Act and that it already provides the relief sought here.
- Accounting and software changes necessary to implement the bill will take more than the 60 days provided for in the legislation to implement. The legislation does not consider technology, procurement, and payment systems that apply to utilities, and particularly to municipal water providers.
- The requirement for utilities to notify all customers of the repayment plan program within 60 days is overly broad and expensive to implement, making it impossible to comply with the terms of the legislation. It should be narrowed so that notification is only required to the customers who will need to take advantage of the repayment plan and only once a customer has accrued debt with the utility.
- There are questions and uncertainties about how the provisions of this legislation relate to municipal bond covenants. Such covenants often include terms prohibiting utilities from providing free water service and impose certain requirements on utilities to seek repayment for services rendered. This issue also has potential constitutional ramifications.
- The reporting requirements are unnecessary and unduly onerous, particularly for municipal drinking water providers that are not regulated by the State Corporation Commission (SCC). It is

unclear what purpose the data collection services would serve, particularly for municipal water providers not regulated by the SCC.

- Municipal drinking water providers have a mandate to provide safe, reliable and affordable drinking water. The broad nature of this program could necessitate the need to increase the rates of the paying customers to offset the losses incurred during the emergency and related repayment period. The rate making process to redistribute costs to paying customers is a laborious process that can easily take a year or more to implement. As a result, cost recovery will not be immediate, risking the current operations of a utility's provision of service to all customers.
- A number of new statutes were enacted during the 2020 General Assembly session to improve existing water supply infrastructure and implement more stringent regulations on water providers to ensure access to safe drinking water. Implementation of those requirements is expensive, and municipal water providers need to be able to budget and plan for meeting those costs. As drafted, the legislation does not properly balance – or allow a municipality to balance – those competing demands.
- For all of the above reasons, MH2O does not support SB 5118 and urges the Department of Health to consider these concerns in formulating its position on the bill.

Suggestions for Improvement If the Bill Goes Forward:

- Exempt small utilities serving fewer than 3,300 customers.
- Explicitly state that if a municipal water provider already has debt repayment programs in place, the bill does not apply.
- Exempt municipal water providers not subject to SCC regulation from the reporting and recordkeeping requirements found in lines 41 – 50 of the bill.
- Establish clear timelines and end point. Setting 24 months from the time the state of emergency ends is not sufficient, because there is no set end point for the state of emergency. This causes undue hardship on municipal water providers as they set budgets and determine funds available for important maintenance, repair and implementation of new regulatory requirements.
- The bill should be clarified such that it is targeted to debts accrued as a result of COVID-19; as drafted, it is not clear whether the repayment program would apply to customers that had pre-existing debt prior to the COVID-19 state of emergency.