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## HOUSE BILL NO. 1274

Offered January 24, 2000

A *BILL to amend and reenact §§ 33.1-23.03:2, 58.1-638 and 58.1-2425 of the Code of Virginia, relating to the Mass Transit Fund.*

Patrons—Rust, Baskerville, Hall, Moss, Scott, Thomas and Van Yahres; Senators: Marsh and Quayle

Referred to Committee on Transportation

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

**1. That §§ 33.1-23.03:2, 58.1-638 and 58.1-2425 of the Code of Virginia are amended and reenacted as follows:**

§ 33.1-23.03:2. Commonwealth Port Fund, Commonwealth Airport Fund and Commonwealth Mass Transit Fund.

Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 ~~and, 14.7 percent in fiscal year 1999-2000, 14.9 percent in fiscal year 2000-2001, and 15.1 percent in fiscal year 2001-2002~~ and thereafter shall be set aside as the Commonwealth Mass Transit Fund. The remaining 78.9 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1998-1999, ~~and 78.7 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1999-2000, 78.5 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 2000-2001, and 78.3 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 2001-2002~~ and thereafter, pursuant to subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

§ 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities' share; Game Protection Fund.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 ~~and, 14.7 percent in fiscal year 1999-2000, 14.9 percent in fiscal year 2000-2001 and 15.1 percent in fiscal year 2001-2002~~ and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.

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60 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds  
61 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in  
62 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be  
63 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall  
64 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the  
65 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access  
66 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington  
67 Airports Authority (MWAA), as follows:

68 From July 1, 1995, through June 30, 2000, any new funds in excess of \$12.1 million which are  
69 available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund,  
70 shall be allocated as follows: sixty percent to MWAA, up to a maximum annual amount of two million  
71 dollars, and forty percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments  
72 due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive  
73 less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

74 Of the remaining amount:

75 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased  
76 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air  
77 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,  
78 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

79 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever  
80 airports on a discretionary basis, except airports owned or leased by MWAA.

81 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports  
82 on a discretionary basis.

83 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
84 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass  
85 Transit Fund.

86 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and  
87 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but  
88 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be  
89 paid to any local governing body, transportation district commission, or public service corporation for  
90 the purposes hereinafter specified.

91 b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent  
92 of the public transportation administrative costs and up to eighty percent of the costs of ridesharing  
93 programs borne by the locality. These amounts may be used to support up to ~~ninety-five~~ *ninety-eight*  
94 percent of the local or nonfederal share of capital project costs for public transportation and ridesharing  
95 equipment, facilities, and associated costs. Capital costs may include debt service payments on local or  
96 agency transit bonds. Further, these amounts may be used to support a maximum of ~~ninety-five~~  
97 *ninety-eight* percent of the costs borne by the locality for the purchase of fuels, lubricants, tires and  
98 maintenance parts and supplies for public transportation. The term "borne by the locality" means the  
99 local share eligible for state assistance consisting of costs in excess of the sum of fares and other  
100 operating revenues plus federal assistance received by the locality.

101 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth  
102 Transportation Board as follows:

103 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical  
104 assistance, shall not exceed 1.5 percent of the Fund.

105 (2) The Board may allocate these funds to any locality or planning district commission to finance up  
106 to eighty percent of the local share of all costs associated with the development, implementation, and  
107 continuation of ridesharing programs.

108 (3) Funds allocated for experimental transit projects may be paid to any local governing body,  
109 transportation district commission, or public corporation or may be used directly by the Department of  
110 Rail and Public Transportation for the following purposes:

111 (a) To finance up to ~~ninety-five~~ *ninety-eight* percent of the capital costs related to the development,  
112 implementation and promotion of experimental public transportation and ridesharing projects approved  
113 by the Board.

114 (b) To finance up to ~~ninety-five~~ *ninety-eight* percent of the operating costs of experimental mass  
115 transportation and ridesharing projects approved by the Board for a period of time not to exceed twelve  
116 months.

117 (c) To finance up to ~~ninety-five~~ *ninety-eight* percent of the cost of the development and  
118 implementation of any other project designated by the Board where the purpose of such project is to  
119 enhance the provision and use of public transportation services.

120 d. Funds allocated for public transportation promotion and operation studies may be paid to any local  
121 governing body, planning district commission, transportation district commission, or public transit

corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(1) At the approval of the Board to finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(2) To finance up to fifty percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of ~~ninety-five~~ *ninety-eight* percent of the nonfederal share for federal projects and ~~ninety-five~~ *ninety-eight* percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal share of the total project cost.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five percent state aid for these payments.

b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include twenty percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not

183 reported, the Department of Education shall adjust such school population figures by the same percent of  
184 annual change in total population estimated for each locality by The Center for Public Service. The  
185 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for  
186 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the  
187 operation of the public schools, which shall be considered as funds raised from local resources. In any  
188 county, however, wherein is situated any incorporated town constituting a school division, the county  
189 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest  
190 payments, or other expenses incurred in the operation of the public schools, the proper proportionate  
191 amount received by him in the ratio that the school population of such town bears to the school  
192 population of the entire county. If the school population of any city or of any town constituting a school  
193 division is increased by the annexation of territory since the last preceding school population census,  
194 such increase shall, for the purposes of this section, be added to the school population of such city or  
195 town as shown by the last such census and a proper reduction made in the school population of the  
196 county or counties from which the annexed territory was acquired.

197 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
198 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
199 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
200 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
201 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
202 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
203 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
204 in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter,  
205 the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
206 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
207 under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
208 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
209 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
210 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
211 balance in the Capital Improvement Fund is less than \$35 million.

212 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
213 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

214 G. The term "net revenue," as used in this section, means the gross revenue received into the general  
215 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,  
216 less refunds to taxpayers.

217 § 58.1-2425. Disposition of revenues.

218 A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.  
219 Except as otherwise provided in this section, these funds shall constitute special funds within the  
220 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall  
221 be available for use in subsequent years for the purposes set forth in this chapter, and any interest  
222 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been  
223 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the  
224 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the  
225 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the  
226 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds  
227 collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental  
228 vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to  
229 the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated  
230 by enactments of the 1986 Special Session of the Virginia General Assembly which amended  
231 §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the  
232 Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are  
233 hereby appropriated to the Commonwealth Transportation Board for transportation needs; and (iv) except  
234 as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross  
235 proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at  
236 the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury  
237 and shall be set aside in a special fund within the Commonwealth Transportation Fund to be used to  
238 meet the expenses of the Department of Motor Vehicles.

239 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation  
240 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be  
241 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the  
242 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and, 14.7  
243 percent in fiscal year 1999-2000, *14.9 percent in fiscal year 2000-2001 and 15.1 percent in fiscal year*  
244 *2001-2002* and thereafter shall be set aside as the Commonwealth Mass Transit Fund.