

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 289

*An Act to amend and reenact § 56-560 of the Code of Virginia, relating to charging of fees for proposals solicited by a responsible public entity under the Public-Private Transportation Act of 1995.*

[S 1229]

Approved March 16, 2003

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

**1. That § 56-560 of the Code of Virginia is amended and reenacted as follows:**

§ 56-560. Approval by the responsible public entity.

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity with respect to the transportation facility or facilities that the private entity proposes to operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The projected total life-cycle cost of the transportation facility or facilities and the proposed date for acquisition of or the beginning of construction of, or improvements to the transportation facility or facilities;

4. A statement setting forth the method by which the operator proposes to secure all property interests required for the transportation facility or facilities. The statement shall include: (i) the names and addresses, if known, of the current owners of the property needed for the transportation facility or facilities, (ii) the nature of the property interests to be acquired, and (iii) any property that the responsible public entity is expected to be requested to condemn;

5. Information relating to the current transportation plans, if any, of each affected local jurisdiction;

6. A list of all permits and approvals required for acquisition or construction of or improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the operator to accommodate such crossings;

8. A statement setting forth the operator's general plans for financing and operating the transportation facility or facilities;

9. The names and addresses of the persons who may be contacted for further information concerning the request; and

10. Such additional material and information as the responsible public entity may reasonably request.

B. The responsible public entity may request proposals from private entities for the acquisition, construction, improvement and/or operation of transportation facilities. *The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.*

C. The responsible public entity may grant approval of the acquisition, construction, improvement and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it serves the public purpose of this chapter. The responsible public entity may determine that the acquisition, construction, improvement and/or operation of the transportation facility or facilities as a qualifying transportation facility serves such public purpose if:

1. There is a public need for the transportation facility or facilities of the type the private entity proposes to operate as a qualifying transportation facility;

2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the operator's plans for operation of the qualifying transportation facility or facilities, are reasonable and compatible with the state transportation plan and with the local comprehensive plan or plans;

3. The estimated cost of the transportation facility or facilities is reasonable in relation to similar facilities; and

4. The private entity's plans will result in the timely acquisition or construction of or improvements to the transportation facility or facilities or their more efficient operation.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing and evaluating the request *submitted by a private entity pursuant to subsection A*, including without limitation, reasonable attorney's fees and fees for financial and other necessary advisors or consultants.

E. The approval of the responsible public entity shall be subject to the private entity's entering into a comprehensive agreement with the responsible public entity.

F. In connection with its approval of the operation of the transportation facility or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The responsible public entity may extend such date from time to time.