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HOUSE BILL NO. 1347

Offered January 22, 2004

A BILL to amend and reenact § 56-565 of the Code of Virginia, relating to pilot or demonstration funds undertaken under the Public-Private Transportation Act of 1995 using federal funds.

Patrons—Saxman and Marshall, D.W.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-565 of the Code of Virginia is amended and reenacted as follows:

§ 56-565. Powers and duties of the operator.

A. The operator shall have all power allowed by law generally to a private entity having the same form of organization as the operator and shall have the power to acquire, construct, improve or operate the qualifying transportation facility and impose user fees and/or enter into service contracts in connection with the use thereof. No tolls or user fees *may be imposed by the operator on any demonstration or pilot project using federal funds, nor may any tolls or user fees* be imposed by the operator on any free road, bridge, tunnel or overpass unless such road, interstate highway, bridge, tunnel or overpass is reconstructed to provide for increased capacity.

B. The operator may own, lease or acquire any other right to use or operate the qualifying transportation facility.

C. Any financing of the qualifying transportation facility may be in such amounts and upon such terms and conditions as may be determined by the operator. Without limiting the generality of the foregoing, the operator may issue debt, equity or other securities or obligations, enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying transportation facility.

D. Subject to applicable permit requirements, the operator shall have the authority to cross any canal or navigable watercourse so long as the crossing does not unreasonably interfere with then current navigation and use of the waterway.

E. In operating the qualifying transportation facility, the operator may:

1. Make classifications according to reasonable categories for assessment of user fees; and

2. With the consent of the responsible public entity, make and enforce reasonable rules to the same extent that the responsible public entity may make and enforce rules with respect to a similar transportation facility.

F. The operator shall:

1. Acquire, construct, improve, maintain and/or operate the qualifying transportation facility in a manner that meets the engineering standards of the responsible public entity for transportation facilities operated and maintained by such responsible public entity, all in accordance with the provisions of the comprehensive agreement;

2. Keep the qualifying transportation facility open for use by the members of the public at all times after its initial opening upon payment of the applicable user fees, except when exempted by § 33.1-252, and/or service payments; provided that the qualifying transportation facility may be temporarily closed because of emergencies or, with the consent of the responsible public entity, to protect the safety of the public or for reasonable construction or maintenance procedures;

3. Maintain, or provide by contract for the maintenance of, the qualifying transportation facility;

4. Cooperate with the responsible public entity in establishing any interconnection with the qualifying transportation facility requested by the responsible public entity; and

5. Comply with the provisions of the comprehensive agreement and any service contract.

INTRODUCED

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