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**HOUSE BILL NO. 2160**

Offered January 12, 2005

Prefiled January 11, 2005

*A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4841 through 15.2-4852; by adding in Chapter 3 of Title 58.1 an article numbered 23, consisting of sections numbered 58.1-550, 58.1-551, and 58.1-552; and by adding in Chapter 3 of Title 58.1 an article numbered 23.1, consisting of sections numbered 58.1-553, 58.1-554, and 58.1-555, relating to sharing the growth in certain taxes in certain regions for transportation.*

Patrons—Reese, Albo, Lingamfelter, Rust and Sickles; Senator: Cuccinelli

Referred to Committee on Appropriations

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

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4841 through 15.2-4852; by adding in Chapter 3 of Title 58.1 an article numbered 23, consisting of sections numbered 58.1-550, 58.1-551, and 58.1-552; and by adding in Chapter 3 of Title 58.1 an article numbered 23.1, consisting of sections numbered 58.1-553, 58.1-554, and 58.1-555 as follows:**

**CHAPTER 48.3****HAMPTON ROADS TRANSPORTATION AUTHORITY ACT.**

*§ 15.2-4841. Short title.*

*This chapter shall be known and may be cited as the Hampton Roads Transportation Authority Act.*

*§ 15.2-4842. Authority created.*

*There is hereby created a political subdivision of the Commonwealth known as the Hampton Roads Transportation Authority, hereinafter known as "the Authority."*

*In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:*

*1. The Authority shall prepare a regional transportation plan for the area comprised by the localities set forth in 15.2-4843 to include, but not necessarily be limited to, transportation improvements of regional significance, and those improvements necessary or incidental thereto, and shall from time to time revise and amend the regional transportation plan. The provisions of Article 7 (§ 15.2-4527 et seq.) of Chapter 45 shall apply, mutatis mutandis, to preparation of the regional transportation plan.*

*2. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such transportation plan.*

*3. The Authority may enter into agreements or leases with public or private entities for the operation of its facilities, or may operate such facilities itself.*

*4. The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transportation commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any state, local, private, or federal entity to provide, or cause to be provided, transportation facilities and services to the area embraced by the Authority. The contracts or agreements, together with any agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transportation facilities and the contracts, agreements, or leases shall inure to the benefit of any creditor of the Authority.*

*Notwithstanding the above, however, the Authority shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is expressly reserved to the municipalities within which taxicabs operate.*

*5. Notwithstanding any other provision of law to the contrary the Authority may:*

*a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation facilities thereon for use in connection with any transportation service;*

*b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted regional transportation plan;*

*c. Prepare a plan for mass transportation services with persons, cities, counties, agencies, authorities, or transportation commissions and may further contract with any person or other entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to*

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59 *a regional transportation plan.*

60 *§ 15.2-4843. Counties and cities embraced by the Authority.*

61 *The Authority shall embrace Isle of Wight County, James City County, York County, the City of*  
62 *Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson,*  
63 *the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.*

64 *§ 15.2-4844. Composition of Authority; membership; terms.*

65 *The Authority shall consist of the following members:*

66 *The chief elected officer of the governing body of each county and city embraced by the Authority or,*  
67 *in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such*  
68 *governing body;*

69 *Two members of the House of Delegates who reside in different counties or cities embraced by the*  
70 *Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the*  
71 *House Committee on Appropriations, the House Committee on Finance, or the House Committee on*  
72 *Transportation;*

73 *One member of the Senate who resides in a county or city embraced by the Authority, appointed by*  
74 *the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee*  
75 *on Finance and the Senate Committee on Transportation; and*

76 *Two citizens who reside in counties and cities embraced by the Authority, appointed by the*  
77 *Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation*  
78 *Board who resides in a county or city embraced by the Authority. The remaining gubernatorial*  
79 *appointment shall be a person who has significant experience in transportation planning, finance,*  
80 *engineering, construction, or management and shall be a resident of a county or city embraced by the*  
81 *Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to*  
82 *the Authority.*

83 *Legislative members shall serve terms coincident with their terms of office. The gubernatorial*  
84 *appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of*  
85 *four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired*  
86 *term. Vacancies shall be filled in the same manner as the original appointments.*

87 *In addition, the following persons shall serve as nonvoting members of the Authority: the Director of*  
88 *the Virginia Department of Rail and Public Transportation, or his designee, and the Commonwealth*  
89 *Transportation Commissioner, or his designee.*

90 *The Authority shall appoint the chairman and vice-chairman from among its members.*

91 *§ 15.2-4845. Staff.*

92 *The Authority shall employ a chief executive officer and staff as it shall determine to be necessary to*  
93 *carry out its duties and responsibilities under this chapter. No person shall contemporaneously serve as*  
94 *a member of the Authority and as chief executive officer or as a staff member. The Virginia Department*  
95 *of Transportation and the Virginia Department of Rail and Public Transportation shall make their*  
96 *employees available to assist the Authority, upon request.*

97 *§ 15.2-4846. Decisions of Authority.*

98 *A majority of the Authority, which majority shall include at least a majority of the representatives of*  
99 *the counties and cities embraced by the Authority, shall constitute a quorum. Decisions of the Authority*  
100 *shall require a quorum and shall be in accordance with voting procedures established by the Authority.*  
101 *In all cases, decisions of the Authority shall require the affirmative vote of two-thirds of the members of*  
102 *the Authority present and voting, and two-thirds of the representatives of the counties and cities*  
103 *embraced by the Authority who are present and voting and whose counties and cities include at least*  
104 *two-thirds of the population embraced by the Authority; however, no motion to fund a specific facility or*  
105 *service shall fail because of this population criterion if such facility or service is not located or to be*  
106 *located or provided or to be provided within the county or city whose representative's sole negative vote*  
107 *caused the facility or service to fail to meet the population criterion. The population of counties and*  
108 *cities embraced by the Authority shall be the population as determined by the most recently preceding*  
109 *decennial census, except that on July 1 of the fifth year following the decennial census, the population*  
110 *of each county and city shall be adjusted, based on population projections made by the Weldon Cooper*  
111 *Center for Public Service of the University of Virginia.*

112 *§ 15.2-4847. Allocation of certain Authority expenses among component counties and cities.*

113 *The administrative expenses of the Authority, as provided in an annual budget adopted by the*  
114 *Authority, to the extent funds for expenses are not provided from other sources, shall be allocated*  
115 *among the component counties and cities on the basis of the relative population, as determined pursuant*  
116 *to § 15.2-4834. The annual budget shall be limited solely to the administrative expenses of the Authority*  
117 *and shall not include any funds for construction or acquisition of transportation facilities or the*  
118 *performing of any transportation service.*

119 *§ 15.2-4848. Payment to members of Authority.*

120 *The members of the Authority may be paid compensation for their services in either (i) the amount*

provided in the general appropriations act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

§ 15.2-4849. Formation of advisory committees.

The Authority shall have a technical advisory committee, consisting of nine individuals who reside or are employed in counties and cities embraced by the Authority and have experience in transportation planning, finance, engineering, construction, or management. Six members shall be appointed by local jurisdictions and three members shall be appointed by the chairman of the Commonwealth Transportation Board. The technical advisory committee shall advise and provide recommendations on the development of projects as required by § 15.2-4838 and funding strategies and other matters as directed by the Authority. The Authority also shall have a planning coordination advisory committee, which shall include, but not be limited to, at least one elected official from each town that is located in any county embraced by the Authority and that receives street maintenance payments under § 33.1-41.1. The Authority may, in its discretion, form additional advisory committees.

§ 15.2-4850. Responsibilities of Authority for long-range transportation planning.

A. The Authority shall be responsible for long-range transportation planning for regional transportation projects in Hampton Roads. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus, whenever possible, set regional transportation policies and priorities for regional transportation projects. The policies and priorities shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner.

B. The Authority shall report annually on the allocation and expenditure of all moneys.

§ 15.2-4851. Authority to issue bonds.

The Authority may issue bonds and other evidences of debt as may be authorized by law. The provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 shall apply, *mutatis mutandis*, to the issuance of such bonds or other debt.

§ 15.2-4852. Other duties and responsibilities of Authority.

In addition to other powers herein granted, the Authority shall have the following duties and responsibilities:

1. General oversight of regional programs involving mass transit or congestion mitigation, including, but not necessarily limited to, carpooling, vanpooling, and ridesharing;

2. Long-range regional planning, both financially constrained and unconstrained;

3. Recommending to state, regional, and federal agencies regional transportation priorities, including public-private transportation projects, and funding allocations;

4. Developing, in coordination with affected counties and cities, regional priorities and policies to improve air quality;

5. Allocating to priority regional transportation projects any funds made available to the Authority and, at the discretion of the Authority, directly overseeing such projects;

6. Recommending to the Commonwealth Transportation Board priority regional transportation projects for receipt of federal and state funds;

7. Recommending to the Commonwealth Transportation Board use or changes in use of tolls for facilities in the area embraced by the Authority;

8. General oversight of regional transportation issues of a multijurisdictional nature, including but not limited to intelligent transportation systems, signalization, and preparation for and response to emergencies;

9. Serving as an advocate for the transportation needs of Hampton Roads before state and federal governments;

10. Applying to and negotiating with the government of the United States, the Commonwealth of Virginia, or any agency or instrumentality thereof, for grants and any other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this chapter subject, however, to any conditions upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes; and

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance or operation of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.).

ARTICLE 23.

*Sharing Growth In Tax Revenue For Transportation in Northern Virginia*

§ 58.1-550. Annual return to the Northern Virginia Transportation Authority of a share of the growth in income tax and sales and use tax revenues.

The Commonwealth shall appropriate to the Northern Virginia Transportation Authority created pursuant to § 15.2-4830, a share of the growth in income tax revenues and sales and use tax revenues collected from and in Northern Virginia. For purposes of this section "Northern Virginia" includes those localities set forth in § 15.2-4831.

No later than August 1 of each year, the Department of Taxation shall establish the annual growth in such tax collections pursuant to the provisions of this section. Such annual growth shall be calculated by (i) combining the total individual income tax revenue collected in the fiscal year two years prior to the current fiscal year ("benchmark fiscal year") from the persons residing in Northern Virginia, with the total state sales and use tax revenue collected for the same period on sales or use in Northern Virginia, and multiplying the total amount by a percentage equal to 100% plus the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, as stated in the most recent CPI-U report prior to the end of the benchmark fiscal year, and (ii) subtracting this amount from the combination of the same taxes set forth in (i) collected in the fiscal year immediately prior the current fiscal year ("subsequent fiscal year"), except no adjustment for inflation.

If the resulting difference is positive, the Commonwealth shall appropriate 20 percent of the difference to the Northern Virginia Transportation Authority and shall pay the same to the Authority, or its order, no later than September 1 of the current fiscal year. The Department of Taxation shall quarterly provide preliminary reports to the Governor and the General Assembly in advance of the August 1 date.

§ 58.1-551. Use of funds for transportation improvements.

The amount appropriated and paid to the Northern Virginia Transportation Authority or its order under this article shall be expended solely for construction, maintenance, repair, replacement, improvement, or expansion of transportation facilities in Northern Virginia, including but not limited to roads, highways, rail, buses, and mass transportation, in accordance with its regional transportation plan. All funds so appropriated and paid to the Authority must be expended for such purposes by the Northern Virginia Transportation Authority within seven years after actual receipt of the funds from the Commonwealth. Payments for debt service and payments to prepay indebtedness incurred for the purposes set forth herein shall be considered as expended for authorized purposes. Any funds appropriated and paid to the Authority under this article and not expended for qualifying purposes within seven years shall be returned to the Treasurer of the Commonwealth.

The Northern Virginia Transportation Authority shall, on or before July 1 of each year, report to the State Inspector General, the Commonwealth's Auditor of Public Accounts, and the General Assembly in accordance with subsection B of § 15.2-4838 and in particular report on the disposition of funds received under this Article.

§ 55.1-552. Sunset Provision.

The payments set forth in § 58.1-550 shall expire July 1, 2015 unless it is extended by the General Assembly.

#### ARTICLE 23.1

*Sharing Growth In Tax Revenue For Transportation in Hampton Roads*

§ 58.1-553. Annual return to the Hampton Roads Transportation Authority of a share of the growth in income tax and sales and use tax revenues.

The Commonwealth shall appropriate to the Hampton Roads Transportation Authority, created pursuant to § 15.2-4842, a share of the growth in income tax revenues and sales and use tax revenues collected from and in Hampton Roads. For purposes of this section Hampton Roads includes those localities set forth in § 15.2-4843

No later than August 1 of each year, the Department of Taxation shall establish the annual growth in such tax collections pursuant to the provisions of this section. The annual growth shall be calculated by (i) combining the total individual income tax revenue collected in the fiscal year two years prior to the current fiscal year ("benchmark fiscal year") from the persons residing in Hampton Roads, with the total state sales and use tax revenue collected for the same period on sales or use in Hampton Roads, and multiplying the total amount by a percentage equal to 100% plus the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for all items, as stated in the most recent CPI-U report prior to the end of the benchmark fiscal year, and (ii) subtracting this amount from the combination of the same taxes set forth in (i) collected in the fiscal year immediately prior to the current fiscal year ("subsequent fiscal year"), except no adjustment for inflation.

If the resulting difference is positive, the Commonwealth shall appropriate 20 percent of the difference to the Hampton Roads Transportation Authority and shall pay the same to said Authority, or its order, no later than September 1 of the current fiscal year. The Department of Taxation shall, quarterly provide preliminary reports to the Governor and the General Assembly in advance of the

244 August 1 date.

245 § 58.1-554. Use of funds for transportation improvements.

246 The amount appropriated and paid to the Hampton Roads Transportation Authority or its order  
247 under this article shall be expended solely for construction, maintenance, repair, replacement,  
248 improvement, or expansion of transportation facilities in Hampton Roads, including but not limited to  
249 roads, highways, rail, buses, and mass transportation, inaccordance with its regional transportation  
250 plan. All funds so appropriated and paid to the Authority must be expended for such purposes by the  
251 Hampton Roads Transportation Authority within seven years after actual receipt of the funds from the  
252 Commonwealth. Payments for debt service and payments to prepay indebtedness incurred for the  
253 purposes set forth herein shall be considered as expended for authorized purposes. Any funds  
254 appropriated and paid to the Authority under this article and not expended for qualifying purposes  
255 within seven years shall be returned to the Treasurer of the Commonwealth.

256 The Hampton Roads Transportation Authority shall, on or before July 1 of each year, report to the  
257 State Inspector General, the Commonwealth's Auditor of Public Accounts, and the General Assembly in  
258 accordance with subsection B of § 15.2-4838 and in particular report on the disposition of funds  
259 received under this Article.

260 § 55.1-555. Sunset Provision.

261 The payments set forth in § 58.1-553 shall expire July 1, 2015 unless it is extended by the General  
262 Assembly.