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HOUSE BILL NO. 2596

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 26, 2005)

(Patron Prior to Substitute—Delegate May)

A BILL to amend and reenact §§ 33.1-221.1:1.1 and 58.1-2425 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered § 33.1-391.3:1, relating to the Rail Enhancement Fund; creation of the Rail Advisory Board; disposition of a portion of the motor vehicle rental tax.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-221.1:1.1 and 58.1-2425 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered § 33.1-391.3:1, as follows:

§ 33.1-221.1:1.1. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement and development of the railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the ~~Railway Preservation and Development~~ Rail Enhancement Fund which shall be considered a special fund within the Transportation Trust Fund, hereafter referred to as "the Fund."

B. The Fund shall be established on the books of the Comptroller, and shall consist of *dedications* pursuant to § 58.1-2425 and such funds from ~~such other~~ sources as ~~shall~~ may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the ~~Executive~~ Director of the Virginia Department of Rail and Public Transportation or the ~~Executive~~ Director's designee.

C. ~~To fulfill this purpose, there shall be funding set forth each year in the budget bill and appropriated by the General Assembly in the Rail Assistance Program of the Department of Rail and Public Transportation. These funds shall be used by the Department of Rail and Public Transportation to administer a Rail Preservation and Development Program for the purposes described in subsection A. Furthermore, the Commonwealth Transportation Board shall include an annual allocation for such purpose in its allocation of transportation revenues.~~

D. The ~~Executive~~ Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring, leasing, and/or improving railways *or railroad equipment, rolling stock, rights of way or facilities*, or assisting other appropriate entities to acquire, lease, or improve railways *or railroad equipment, rolling stock, rights of way or facilities*, for freight and/or passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. ~~The Executive~~ Prior to recommending an allocation of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation ~~may shall~~ consult with ~~other~~ agencies or their designated representatives concerning projects to be undertaken under this section and obtain the advice and recommendations of the Rail Advisory Board established pursuant to § 33.1-391.3:1.

E. Tracks and facilities constructed and property and equipment purchased under this section shall be the property of the Commonwealth for the useful life of the project as determined by the Executive Director of the Department of Rail and Public Transportation and shall be made available for use by all common carriers using the railway system to which they connect under trackage rights agreements between the parties. Projects undertaken pursuant to this section shall be limited to those the Commonwealth Transportation Board shall have determined will result in public benefits to the Commonwealth or to a region of the Commonwealth that are equal to or greater than the investment of funds under this section. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, or a local government source, or a combination of such sources.

§ 33.1-391.3:1. Rail Advisory Board.

There is hereby established the Rail Advisory Board to consist of nine members appointed by the

60 Governor for terms of four years. Vacancies shall be filled for the unexpired term in the same manner
61 as the original appointment. One of such appointees shall be an at-large member of the Commonwealth
62 Transportation Board. The members of the Board shall elect a Chairman. The Board may, by majority
63 vote, choose one of its members to serve as vice-chairman. The Board shall, in consultation with the
64 Director, develop recommendations to be presented to the Commonwealth Transportation Board
65 regarding allocations of funds from the Rail Enhancement Fund. The Board shall also advise the
66 Director and the Department on other matters at the request of the Director or the Department. The
67 Board shall meet at the call of the Chairman. A majority of the members shall constitute a quorum for
68 the conduct of all Board business.

69 The Board shall have the following responsibilities:

70 1. In consultation with, and with the assistance of the Director, the Board shall develop
71 recommendations to be presented to the Commonwealth Transportation Board regarding all proposed
72 allocations of funds from the Rail Enhancement Fund.

73 2. The Board shall work cooperatively with the Director of the Department of Rail and Public
74 Transportation and with any affected railroad in identifying, developing, and advocating projects and
75 policies to enhance the quality and utility to the public of rail transportation in the Commonwealth.

76 3. At the request of the Director, the Board shall consider and advise the Director and the
77 Department on any other matter or matters pertaining to transportation in the Commonwealth.

78 Members of the Board shall receive no compensation, but shall be reimbursed the actual and
79 necessary expenses incurred in connection with their official duties. Staff support for the Board shall be
80 provided by the Department of Rail and Public Transportation.

81 § 58.1-2425. Disposition of revenues.

82 A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
83 Except as otherwise provided in this section, these funds shall constitute special funds within the
84 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
85 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
86 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
87 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
88 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
89 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
90 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds
91 collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental
92 vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to
93 the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated
94 by enactments of the 1986 Special Session of the Virginia General Assembly which amended
95 §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the
96 Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are
97 hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as
98 otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross
99 proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at
100 the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury
101 and shall be set aside in a special fund within the Commonwealth Transportation Fund to be used to
102 meet the expenses of the Department of Motor Vehicles paid into the Rail Enhancement Fund
103 established by § 33.1-221.1:1.1; and (v) all additional revenues resulting from the fee imposed under
104 subdivision A 5 of § 58.1-2402 as enacted by the 2004 Session of the General Assembly shall be used
105 to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide
106 Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted
107 by the 2004 Session of the General Assembly.

108 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
109 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be
110 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
111 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7
112 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
113 Fund.