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SENATE BILL NO. 215

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Local Government
on January 31, 2006)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend the Code of Virginia by adding in Title 33.1 a chapter numbered 10.2, consisting of sections numbered 33.1-391.6 through 33.1-391.9; and to repeal Chapter 1041 of the Acts of Assembly of 2003, relating to the TransDominion Express Authority.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 33.1 a chapter numbered 10.2, consisting of sections numbered 33.1-391.6 through 33.1-391.9, as follows:

CHAPTER 10.2.

TRANSDOMINION EXPRESS AUTHORITY.

§ 33.1-391.6. Short title.

This chapter shall be known and may be cited as the TransDominion Express Authority Act.

§ 33.1-391.7. Authority created; purpose.

There is hereby created a body corporate and a political subdivision of the Commonwealth to be known as the TransDominion Express Authority, hereinafter in this chapter known as "the Authority." The Authority shall have the responsibility within the TransDominion corridor of identifying needed construction, reconstruction, improvements, repairs, extensions, additions, restorations, and any related acquisitions of real or personal property, of or to rails, tracks, rights-of-way, shops, terminals, bridges, tunnels, rolling stock, signals, and any other equipment, infrastructure, or facilities that are or may be used to provide for the transportation of passengers by rail in coordination with freight rail in the Commonwealth that the Authority determines to be in the public interest, hereinafter referred to as a rail transportation project. In addition to its other powers hereinafter set forth, the Authority shall have the power to finance or assist in financing, from the resources made available to it, any such rail transportation project. For purposes of this chapter, the TransDominion corridor shall be defined generally as the rail corridor from Bristol through Roanoke and Lynchburg and including branches extending from Lynchburg to Richmond and from Lynchburg to Washington D.C. through Charlottesville and including communities adjacent thereto and to such other destinations as the Authority may deem appropriate.

§ 33.1-391.8. Composition of Authority; chairman and vice-chairman; quorum; administrative support services.

The Authority shall consist of nine voting members from the TransDominion Express service area appointed by the Governor, subject to confirmation by the General Assembly, who shall serve for terms of four years and may be reappointed for one additional term.

For the initial appointments only, four of the appointments may be for terms of two years so as to allow for staggered terms. Such initial two-year terms shall not count against the term limitation. Vacancies shall be filled by gubernatorial appointment for any unexpired term.

The Authority shall annually elect from its membership a chairman and vice-chairman, who shall continue to hold such office until their respective successors are elected. Five members of the Authority shall constitute a quorum.

The members of the Authority shall be reimbursed their actual and necessary expenses incurred in carrying out their duties and, in addition, shall be paid the same per diem as provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions.

§ 33.1-391.9. Powers of Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from

60 *the United States and agencies or instrumentalities thereof, the Commonwealth, or any political*
61 *subdivision, agency, or instrumentality of the Commonwealth;*

62 *6. To make loans or grants for purposes that are consistent with this chapter and otherwise to*
63 *receive and expend moneys on behalf of the Authority;*

64 *7. To acquire real and personal property or any interest therein by purchase, lease, gift, or*
65 *otherwise, and to hold, encumber, sell, or otherwise dispose of such land or interest, for purposes*
66 *consistent with this chapter;*

67 *8. To construct or acquire, by purchase, lease, contract, or otherwise, rail transportation facilities;*

68 *9. To enter into agreements or leases with public or private entities for the operation of rail*
69 *transportation facilities it has acquired;*

70 *10. To make and execute contracts and all other instruments and agreements necessary or convenient*
71 *for the performance of its duties and the exercise of its powers and functions under this chapter;*

72 *11. To the extent funds are made available to the Authority to do so, to employ employees, agents,*
73 *advisors, and consultants, including without limitation, attorneys, financial advisers, engineers, and*
74 *other technical advisers and, the provisions of any other law to the contrary notwithstanding, to*
75 *determine their duties and compensation;*

76 *12. To establish and collect fees, charges or other revenue for the use of the property, equipment, or*
77 *facilities of the Authority, and to pledge such fees, charges, or other revenues to service debt authorized*
78 *under this Act; and*

79 *13. To the extent not inconsistent with other provisions of this chapter, and without limiting or*
80 *restricting the powers otherwise given the Authority, to exercise all the powers given to transportation*
81 *district commissions by § 15.2-4518, except the right to exercise the power of eminent domain.*

82 *No provision of this chapter shall be construed as authorizing the Authority to (i) impose fees,*
83 *financial obligations, or mandates of any kind on any common carrier freight railroad without the*
84 *express consent of the common carrier railroad or (ii) exercise the power of eminent domain.*

85 **2. That Chapter 1041 of the Acts of Assembly of 2003 is repealed.**