

2006 SPECIAL SESSION I

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HOUSE BILL NO. 5057

Offered September 15, 2006

A *BILL to authorize the Commonwealth Transportation Board to issue revenue bonds for transportation projects throughout the Commonwealth.*

Patrons—Kilgore, Lingamfelter and Welch

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Commonwealth Transportation Board is authorized to issue bonds as follows:

§ 1. *Title. This act shall be known and may be cited as the "Transportation Bond Act of 2007."*

§ 2. *The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of the State Revenue Bond Act (§ 33.1-267 et seq.), as amended from time to time, revenue obligations of the Commonwealth in an aggregate principal amount not exceeding \$2 billion (excluding bond anticipation notes, refunding bonds, or refunding bond anticipation notes), plus an amount for financing expenses (including, without limitation, any original issue discount), to be designated "Commonwealth of Virginia Transportation Investment Notes, Series .."*

§ 3. *The net proceeds of notes shall be allocated as follows: 60% to be distributed to fund transportation projects in the Northern Virginia Highway Construction District and the Hampton Roads Highway Construction District, and 40% to be distributed to fund transportation projects in the remaining highway construction districts of the Commonwealth. Funding for transportation projects may include, but not be limited to, environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses. Such costs may include the payment of interest on the notes for a period during construction and not exceeding one year after completion of construction of the projects.*

§ 4. *The transportation projects to be funded from the proceeds of the notes shall be determined by the Commonwealth Transportation Board.*

§ 5. *The proceeds of the notes, including any premium received on the sale thereof, shall be made available by the Commonwealth Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying for costs of the projects. The proceeds of the notes may be used together with any federal, local, or private funds that may be made available for such purpose. The proceeds of the notes, together with any investment earnings thereon, may at the discretion of the Commonwealth Transportation Board secure the payment of principal or purchase price of and redemption premium, if any, and interest on the notes.*

§ 6. *The terms and structure of each issue of the notes shall be determined by the Commonwealth Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia, as amended. The notes of each issue shall be dated; shall be issued in a principal amount (subject to the limitations set forth in § 2); shall bear interest at such rate or rates which may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other method; shall mature at such time or times not exceeding 10 years after the issuance thereof; and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Commonwealth Transportation Board. The Commonwealth Transportation Board shall determine the form of notes, whether the notes are certificated or uncertificated, and fix the authorized denomination or denominations of the notes and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on the notes, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on the notes shall be made payable in lawful money of the United States of America. Each issue of the notes may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such notes. All notes shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.*

The Commonwealth Transportation Board may sell the notes from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may

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59 determine to be in the best interests of the Commonwealth.

60 § 7. The notes shall be signed on behalf of the Commonwealth Transportation Board by the
61 chairman or vice-chairman of the Commonwealth Transportation Board, or shall bear the facsimile
62 signature of such officer, and shall bear the official seal of the Board, which shall be attested to by the
63 manual or facsimile signature of the secretary or assistant secretary of the Commonwealth
64 Transportation Board. In the event that the notes shall bear the facsimile signature of the chairman or
65 vice-chairman of the Commonwealth Transportation Board, such notes shall be signed by such
66 administrative assistant as the chairman of the Commonwealth Transportation Board shall determine or
67 by any registrar/paying agent that may be designated by the Commonwealth Transportation Board. In
68 case any officer whose signature or a facsimile of whose signature appears on any notes shall cease to
69 be such officer before the delivery of such notes, such signature or facsimile signature nevertheless shall
70 be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

71 § 8. All expenses incurred under this Act or in connection with the issuance of the notes shall be
72 paid from the proceeds of such notes or from any available funds as the Commonwealth Transportation
73 Board shall determine.

74 § 9. The Commonwealth Transportation Board is hereby authorized to borrow money at such rate or
75 rates through the execution and issuance of the notes for the same, but only in the following
76 circumstances and under the following conditions:

77 a. In anticipation of the sale of the notes, the issuance of which shall have been authorized by the
78 Commonwealth Transportation Board and shall have been approved by the Governor, if the
79 Commonwealth Transportation Board shall deem it advisable to postpone the issuance of such notes; or

80 b. For the renewal of any anticipation notes herein authorized.

81 § 10. The proceeds of the notes and of any anticipation notes herein authorized (except the proceeds
82 of the notes the issuance of which has been anticipated by such anticipation notes) shall be placed by
83 the State Treasurer in a special fund in the state treasury, or may be placed with a trustee in
84 accordance with § 33.1-283 of the Code of Virginia, as amended, and shall be disbursed only for the
85 purpose for which such notes and such anticipation notes shall be issued; provided, however, that
86 proceeds derived from the sale of the notes herein authorized shall be first used in the payment of any
87 anticipation notes that may have been issued in anticipation of the sale of such notes and any renewals
88 of such notes. The proceeds of the notes and of any anticipation notes herein authorized, together with
89 any investment earnings thereon, shall not be taken into account in computing, and shall be in addition
90 to funds allocated pursuant to the highway allocation formula set forth in § 33.1-23.1 of the Code of
91 Virginia, as amended.

92 § 11. The Commonwealth Transportation Board is hereby authorized to receive any other funds that
93 may be made available to pay costs of the projects and, subject to appropriation, to make available the
94 same to the payment of the principal or purchase price of, and redemption premium, if any, and interest
95 on the notes authorized hereby and to enter into the appropriate agreements to allow for those funds to
96 be paid into the state treasury, or to a trustee in accordance with § 33.1-283 of the Code of Virginia, as
97 amended, to pay a part of the costs of the projects or to pay principal or purchase price of, and
98 redemption premium, if any, and interest on the notes.

99 § 12. The Commonwealth Transportation Board, in connection with the issuance of the notes, shall
100 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state
101 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which
102 shall secure and be used for the payment of the notes to the credit of which there shall be deposited
103 such amounts, appropriated therefor by the General Assembly, as are required to pay principal or
104 purchase price of, and redemption premium, if any, and interest on the notes, as and when due and
105 payable, (i) first from such funds as shall be designated by the General Assembly; and (ii) then, at the
106 discretion of the Commonwealth Transportation Board, to the extent required, from legally available
107 revenues of the Transportation Trust Fund.

108 § 13. Note proceeds and moneys in any reserve funds and sinking funds in respect of the notes shall
109 be invested by the State Treasurer in accordance with the provisions of general law relating to the
110 investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in
111 accordance with § 33.1-283 of the Code of Virginia, as amended.

112 § 14. The interest income from, and any profit made on the sale of, the obligations issued under the
113 provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by
114 any municipality, county, or other political subdivision thereof.

115 § 15. All obligations issued under the provisions of this Act are hereby made securities in which all
116 persons and entities listed in § 33.1-280 of the Code of Virginia, as amended, may properly and legally
117 invest funds under their control.

118 2. That no moneys distributed pursuant to this act shall be used to calculate or reduce the share
119 of federal, state, or local revenues or funds otherwise available to the localities in the counties and
120 cities participating in those programs nor shall they be used to calculate or reduce any allocation

121 of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or allocation
122 of revenues or funds that shall not be reduced includes, but is not limited to, state basic aid
123 payments.

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