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HOUSE BILL NO. 3067

Offered January 16, 2007

A BILL to authorize the Commonwealth Transportation Board to issue bonds in an aggregate amount not exceeding \$2 billion to fund highway construction and mass transit.

Patron—Callahan

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

§ 1. Title. This act shall be known and may be cited as the "the Commonwealth Transportation Capital Projects Bond Act of 2008."

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of Article X, § 9(d) of the Constitution of Virginia, and of the State Revenue Bond Act (§ 33.1-267 et seq.), as amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth Transportation Capital Projects Notes, Series .." at one or more times in an aggregate principal amount not to exceed \$2,000,000,000; provided that the aggregate principal amount issued in any one fiscal year shall not exceed \$325,000,000. The Notes shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth.

§ 3. The net proceeds of the Notes shall be allocated as follows: (i) 15.7 percent of the net proceeds shall be deposited into the Commonwealth Mass Transit Fund and used exclusively pursuant to the provisions of subdivision A4 of § 58.1-638, and (ii) the remaining net proceeds shall be used by the Commonwealth Transportation Board exclusively for highway construction and shall be allocated and distributed to each highway construction district, on a pro rata basis according to the population residing in the respective highway construction district as compared to the total population in all highway construction districts of the Commonwealth. The population for a highway construction district shall be determined according to the population within the counties and cities comprising the district using the most recent decennial census figures or the provisional population estimates as published by the Weldon Cooper Center for Public Services, whichever is more recent at the time of distribution of such moneys. The particular highway construction projects to be funded within each construction district shall be as determined by the Commonwealth Transportation Board. Proceeds of the Notes may be used to pay any financing costs and other financing expenses, and interest on the Notes for a period during construction and not exceeding one year after completion of construction of the projects.

§ 4. 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 projects pursuant to § 3 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.

§ 5. 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 § 1); 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 20 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

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HB3067

59 to have, as between successive holders, all the qualities and incidents of negotiable instruments under  
60 the negotiable instruments law of the Commonwealth.

61 The Commonwealth Transportation Board may sell the Notes from time to time at public or private  
62 sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may  
63 determine to be in the best interests of the Commonwealth.

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

75 § 7. All expenses incurred under this Act or in connection with the issuance of the Notes shall be  
76 paid from the proceeds of such Notes or from any available funds as the Commonwealth Transportation  
77 Board shall determine.

78 § 8. The Commonwealth Transportation Board is hereby authorized to borrow money at such rate or  
79 rates through the execution and issuance of the Notes for the same, but only in the following  
80 circumstances and under the following conditions:

81 a. In anticipation of the sale of the Notes, the issuance of which shall have been authorized by the  
82 Commonwealth Transportation Board and shall have been approved by the Governor, if the  
83 Commonwealth Transportation Board shall deem it advisable to postpone the issuance of such Notes; or

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

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

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

103 § 11. The Commonwealth Transportation Board, in connection with the issuance of the Notes, shall  
104 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state  
105 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which  
106 shall secure and be used for the payment of the Notes to the credit of which there shall be deposited  
107 such amounts, appropriated therefor by the General Assembly, as are required to pay principal or  
108 purchase price of, and redemption premium, if any, and interest on the Notes, as and when due and  
109 payable.

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

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

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

120 **2. That no moneys distributed pursuant to this act shall be used to calculate or reduce the share**

121 of federal, state, or local revenues or funds otherwise available to the localities in the counties and  
122 cities participating in those programs nor shall they be used to calculate or reduce any allocation  
123 of revenues or funds made pursuant to Title 33.1 of the Code of Virginia.

124 3. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to  
125 any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction,  
126 such judgment shall not affect the validity of the remainder hereof but shall be confined to the  
127 clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which  
128 such judgment shall have been rendered, and to this end the provisions of this act are severable.

129 4. That the debt service on the bonds authorized pursuant to this act shall be paid, in whole or in  
130 part, from revenue attributable to additional vehicle registration fees enacted by the 2007 Session  
131 of the General Assembly.