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**HOUSE BILL NO. 627**

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact § 56-560 of the Code of Virginia, relating to the Public-Private Transportation Act of 1995.*

Patrons—May, Bouchard, Rust and Vanderhye

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That § 56-560 of the Code of Virginia is amended and reenacted as follows:**

§ 56-560. Approval by the responsible public entity.

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity in its guidelines or other instructions given, in writing, to the private entity with respect to the transportation facility or facilities that the private entity proposes to develop and/or operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The proposed date for development and/or operation of the transportation facility or facilities along with an estimate of the life-cycle cost of the transportation facility as proposed;

4. A statement setting forth the method by which the private entity proposes to secure any property interests required for the transportation facility or facilities;

5. Information relating to the current transportation plans, if any, of each affected jurisdiction;

6. A list of all permits and approvals required for developing and/or operating improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the private entity to accommodate such crossings;

8. A statement setting forth the private entity's general plans for developing and/or operating the transportation facility or facilities, including identification of any revenue, public or private, or proposed debt or equity investment or concession proposed by the private entity;

9. The names and addresses of the persons who may be contacted for further information concerning the request;

10. Information on how the private entity's proposal will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency; and

11. Such additional material and information as the responsible public entity may reasonably request pursuant to its guidelines or other written instructions.

B. The responsible public entity may request proposals from private entities for the development and/or operation of transportation facilities. The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.

C. The responsible public entity may grant approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it serves the public purpose of this chapter. The responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves such public purpose if:

1. There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility *and the facility is included in the Commonwealth's most recent six-year transportation improvement plan;*

2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities, are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency;

3. The estimated cost of developing and/or operating the transportation facility or facilities is

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59 reasonable in relation to similar facilities; and

60 4. The private entity's plans will result in the timely development and/or operation of the  
61 transportation facility or facilities or their more efficient operation.

62 In evaluating any request, the responsible public entity may rely upon internal staff reports prepared  
63 by personnel familiar with the operation of similar facilities or the advice of outside advisors or  
64 consultants having relevant experience; *however, the responsible public entity shall not grant approval*  
65 *of the development or operation of the transportation facility or facilities as a qualifying transportation*  
66 *facility unless and until the public entity has conducted a traditional public hearing on the proposal.*

67 D. The responsible public entity may charge a reasonable fee to cover the costs of processing,  
68 reviewing, and evaluating the request submitted by a private entity pursuant to subsection A, including  
69 without limitation, reasonable attorney's fees and fees for financial and other necessary advisors or  
70 consultants. *The responsible public entity shall require the private entity to pay the costs for an*  
71 *independent verification of any and all traffic and cost estimates associated with the private entity's*  
72 *proposal and shall also provide a full accounting of all public costs and potential liabilities to which*  
73 *taxpayers would be exposed, and all such information shall be fully disclosed prior to entering into any*  
74 *interim agreement and updated prior to entering into any comprehensive agreement.* The responsible  
75 public entity shall also develop guidelines that establish the process for the acceptance and review of a  
76 proposal from a private entity pursuant to subsections A and B. Such guidelines shall establish a specific  
77 schedule for review of the proposal by the responsible public entity, a process for alteration of that  
78 schedule by the responsible public entity if it deems that changes are necessary because of the scope or  
79 complexity of proposals it receives, the process for receipt and review of competing proposals, and the  
80 type and amount of information that is necessary for adequate review of proposals in each stage of  
81 review. For qualifying transportation facilities that have approved or pending state and federal  
82 environmental clearances, secured significant right of way, have previously allocated significant state or  
83 federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to  
84 develop and/or operate the qualifying transportation facility in accordance with the purpose of this  
85 chapter, the guidelines shall provide for a prioritized documentation, review, and selection process.

86 E. The approval of the responsible public entity shall be subject to the private entity's entering into  
87 an interim agreement or a comprehensive agreement with the responsible public entity.

88 F. In connection with its approval of the development and/or operation of the transportation facility  
89 or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for  
90 the acquisition of or the beginning of construction of or improvements to the qualifying transportation  
91 facility. The responsible public entity may extend such date from time to time.

92 G. The responsible public entity shall take appropriate action, as more specifically set forth in its  
93 guidelines, to protect confidential and proprietary information provided by the private entity pursuant to  
94 an agreement under subdivision 11 of § 2.2-3705.6.

95 H. The responsible public entity may also apply for, execute, and/or endorse applications submitted  
96 by private entities to obtain federal credit assistance for qualifying projects developed and/or operated  
97 pursuant to this chapter.

98 *I. The responsibly public entity, in evaluating proposals submitted pursuant to this chapter, shall give*  
99 *priority to projects in which the private entity will invest equity in a toll project or purchase a certain*  
100 *percentage of bonds issued in connection with a toll project.*