

2008 SPECIAL SESSION II

INTRODUCED

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HOUSE BILL NO. 6052

Offered June 24, 2008

A *BILL to amend and reenact §§ 33.1-23.03:8 and 33.1-23.4:01 of the Code of Virginia, and §§ 5 and 11 of the second enactment of Chapter 896 of the Acts of Assembly of 2007, relating to the Commonwealth Transportation Capital Projects Bond Act of 2007.*

Patrons—Oder, Cosgrove, Iaquinto and Suit

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:8 and 33.1-23.4:01 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-23.03:8. Priority Transportation Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. All funds as may be designated in the appropriation act for deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds shall include:

1. A portion of the moneys actually collected, including penalty and interest, attributable to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with such increase being calculated as the difference between such tax revenues collected in the manner prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed manner in effect immediately before the effective date of Chapter 22, computed without regard to increases in the rates of taxes under Chapter 22 pursuant to enactments of the 2007 Session of the General Assembly. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues and allocated for highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1;

2. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section;

3. All revenues deposited into the Fund pursuant to § 58.1-2531; and

4. Any other such funds as may be transferred, allocated, or appropriated.

~~All~~ *Subject to their appropriation by the General Assembly, all* moneys in the Fund shall first be used for debt service payments on bonds or obligations for which the Fund is expressly required for making debt service payments, to the extent needed. The Fund shall be considered a part of the Transportation Trust Fund. 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 for the purposes enumerated in subsection B of this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Commonwealth Transportation Board shall use the Fund to facilitate the financing of priority transportation projects throughout the Commonwealth. The Board may use the Fund either (i) by expending amounts therein on such projects directly, (ii) by payment to any authority, locality, commission or other entity for the purpose of paying the costs thereof, or (iii) by using such amounts to support, secure, or leverage financing for such projects. No expenditures from or other use of amounts in the Fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition thereto. The Board shall use the Fund to facilitate the financing of priority transportation projects as designated by the General Assembly; provided, however, that, at the discretion of the Commonwealth Transportation Board, funds allocated to projects within a transportation district may be allocated among projects within the same transportation district as needed to meet construction cash-flow needs.

C. Notwithstanding any other provision of this section, beginning July 1, 2007, no bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for debt service payments or for the repayment of such bonds the revenues of the Fund, shall be issued or entered into unless at the

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59 time of the issuance the revenues then in the Fund or reasonably anticipated to be deposited into the
60 Fund pursuant to the law then in effect are by themselves sufficient to make 100% of the contractually
61 required debt service payments on all such bonds, including any interest related thereto and the
62 retirement of such bonds.

63 § 33.1-23.4:01. Allocation of proceeds of Commonwealth of Virginia Transportation Capital Projects
64 Revenue Bonds.

65 A. The Commonwealth Transportation Board shall allocate, use, and distribute the proceeds of any
66 bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision 4f of § 33.1-269, as
67 follows:

68 1. A minimum of 20% of the bond proceeds shall be used for transit capital consistent with
69 subdivision A 4 g of § 58.1-638.

70 2. A minimum of 4.3% of the bond proceeds shall be used for rail capital consistent with the
71 provisions of §§ 33.1-221.1:1.1 and 33.1-221.1:1.2.

72 3. The remaining amount of bond proceeds shall be used for paying the costs incurred or to be
73 incurred for construction of transportation projects with such bond proceeds used or allocated as follows:
74 (a) first, to match federal highway funds projected to be made available and allocated to highway and
75 public transportation capital projects by the Commonwealth Transportation Board, for purposes of
76 allowing additional state construction funds to be allocated to the primary, urban, and secondary systems
77 of highways pursuant to subdivisions B 1, B 2, and B 3 of § 33.1-23.1; (b) next, to provide any required
78 funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds pursuant
79 to § 33.1-23.05; and (c) third, to pay or fund the costs of statewide or regional projects throughout the
80 Commonwealth. Costs incurred or to be incurred for construction or funding of these transportation
81 projects shall include, but are not limited to, environmental and engineering studies, rights-of-way
82 acquisition, improvements to all modes of transportation, acquisition, construction and related
83 improvements, and any financing costs or other financing expenses relating to such bonds. Such costs
84 may include the payment of interest on such bonds for a period during construction and not exceeding
85 one year after completion of construction of the relevant project.

86 4. The total amount of bonds authorized shall be used for purposes of applying the percentages in
87 subdivisions 1 through 3.

88 *The Commonwealth Transportation Board shall ensure that the net proceeds of any bonds it is*
89 *authorized to issue pursuant to subdivision 4f of § 33.1-269 shall be allocated and used as follows:*

90 1. *In the long term, approximately 35% of the net proceeds shall have been used for major Interstate*
91 *construction projects in the Hampton Roads Construction District that will reduce the most congestion.*
92 *Such projects shall be constructed under the Public-Private Transportation Act of 1995 pursuant to*
93 *Chapter 22 (§ 56-556 et seq.) of Title 56 or concession agreements as provided under such Act;*

94 2. *In the long term, approximately 47% of the net proceeds shall have been used for transportation*
95 *projects in the Northern Virginia Construction District that address transportation problems caused by*
96 *certain decisions made by the Defense Base Closure and Realignment Commission; and*

97 3. *In the long term, the remaining 18% of the net proceeds shall have been used for projects in all*
98 *other construction districts described in § 33.1-2, with each construction district's relative share equal to*
99 *the total highway construction funds allocated to the construction district pursuant to subdivisions B 1*
100 *through B 3 of § 33.1-23.1 in the Commonwealth's fiscal year ending June 30, 2008, as a proportion of*
101 *the total highway construction funds allocated to all construction districts pursuant to such subdivisions*
102 *in such fiscal year.*

103 2. That § 5 of the second enactment of Chapter 896 of the Acts of Assembly of 2007 is amended
104 and reenacted as follows:

105 § 5. The terms and structure of each issue of the Bonds shall be determined by the Commonwealth
106 Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of
107 the Code of Virginia, as amended. The Bonds of each issue shall be dated; shall be issued in a
108 principal amount (subject to the limitations set forth in § 2 and in subsection C of § 33.1-23.03:8 of
109 the Code of Virginia); shall bear interest at such rate or rates, which may be fixed, adjustable,
110 variable or a combination thereof and may be determined by a formula or other method; shall
111 mature at such time or times not exceeding 25 years from their date or dates; and may be made
112 subject to purchase or redemption before their maturity or maturities, at such price or prices and
113 under such terms and conditions, all as may be determined by the Commonwealth Transportation
114 Board. The Commonwealth Transportation Board shall determine the form of the Bonds, whether
115 the Bonds are certificated or uncertificated, and fix the authorized denomination or denominations
116 of the Bonds and the place or places of payment of principal or purchase price of, and redemption
117 premium, if any, and interest on the Bonds, which may be at the office of the State Treasurer or
118 any bank or trust company within or without the Commonwealth. The principal or purchase price
119 of, and redemption premium, if any, and interest on the Bonds shall be made payable in lawful
120 money of the United States of America. Each issue of the Bonds 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 Bonds. All Bonds shall have and are hereby declared to have, as between successive holders, all of the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Commonwealth Transportation Board may sell the Bonds 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 determine to be in the best interests of the Commonwealth.

3. That § 11 of the second enactment of Chapter 896 of the Acts of Assembly of 2007 is amended and reenacted as follows:

§ 11. The Commonwealth Transportation Board, in connection with the issuance of the Bonds, shall establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which shall secure and be used for the payment of the Bonds to the credit of which there shall be deposited such amounts, ~~appropriated~~ *subject to their appropriation* therefor by the General Assembly, as are required to pay principal or purchase price of, and redemption premium, if any, and interest on the Bonds, as and when due and payable, (i) from the revenues deposited into the Priority Transportation Fund pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any legally available funds.