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SENATE BILL NO. 1479

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 9, 2009)

(Patron Prior to Substitute—Senator Miller, Y.B.)

A *BILL to authorize the Virginia Marine Resources Commission to grant easements and rights-of-way across and in the beds of the Elizabeth River, including a portion of the Baylor Survey, to the Department of Transportation, for the improvement of the Midtown Tunnel.*

Whereas, the Department of Transportation currently operates and maintains the Route 58 Midtown Tunnel connecting the Cities of Norfolk and Portsmouth; and

Whereas, the population of the Hampton Roads region and traffic using the existing tunnel have grown considerably since the existing facility opened in 1962; and

Whereas, the current facility is now the most heavily traveled two-lane road in the Commonwealth; and

Whereas, the heavy use of the existing facility poses both safety and congestion problems; and

Whereas, the Department of Transportation, in cooperation with the Hampton Roads Metropolitan Planning Organization, has determined that construction of a parallel tunnel would improve these conditions; and

Whereas, a new facility will create new job and economic opportunities for the residents of Norfolk and Portsmouth; and

Whereas, the federal government approved the environmental impact statement for the project in July 2007; and

Whereas, this location will cross the Baylor Survey Grounds Number 9, therefore necessitating an act of the General Assembly; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That the Virginia Marine Resources Commission (VMRC) is hereby authorized to grant and convey to the Department of Transportation, its successors and assigns, upon such terms and conditions as VMRC, with the approval of the Governor and the Attorney General, shall deem proper, permanent easements and rights-of-way and a temporary right-of-way of a reasonable width as needed for the purpose of the construction of a second tunnel for the Route 58 Midtown Tunnel.*

Situated along the Elizabeth River and being a part of the Baylor Ground designated "Public Ground No. 9, Norfolk County (City of Norfolk)" as shown on a map compiled by the VMRC and being a tract of property described as follows:

Beginning at the southeastern-most point of said "Public Ground No. 9" said point having a coordinate value of North 3,478,519.497, East 12,122,019.715. Coordinate values are based on Virginia State Plane Coordinate System, South Zone, NAD 1983/1994 HARN, and expressed in U.S. Survey feet. Thence, with the south line of "Public Ground No. 9," North 82° 21' 33" West, 275.71 feet to the TRUE POINT OF BEGINNING; Thence, continuing with the south line of "Public Ground No. 9," North 82° 21' 33" West, 636.94 feet; Thence leaving the south line of "Public Ground No. 9," North 45° 25' 50" East, 1,387.72. feet to the eastern line of said "Public Ground No. 9"; Thence, following the eastern line of said "Public Ground No. 9," South 4° 23' 22" West, 766.60 feet; Thence, leaving the eastern line of said "Public Ground No. 9," South 45° 25' 50" West, 419.22 feet, to the TRUE POINT OF BEGINNING; and containing 10.440 acres, more or less.

§ 2. That the public interest of this project outweighs the public interest in maintaining the sanctity of the Baylor Survey at this location, and this location only, because of its non-productivity for shellfish.

§ 3. That none of the property described in § 1 that lies within the Baylor Survey shall be considered part of the natural oyster beds, rocks, and shoals in the waters of the Commonwealth.

§ 4. That the instrument granting and conveying the easements and rights-of-way from the Commonwealth to the Department of Transportation shall be in a form approved by the Attorney General.

§ 5. That the Department of Transportation is hereby authorized to permit uses of the easement and right-of-way to a private entity developing and/or operating the Midtown Tunnel pursuant to the Public-Private Transportation Act (§ 56-556 et seq.) of the Code of Virginia.