093810228

SENATE BILL NO. 863

Offered January 14, 2009

Prefiled December 29, 2008

A BILL to amend the Code of Virginia by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.16 through 33.1-391.18, and to repeal Chapter 1041 of the Acts of Assembly of 2003, relating to the TransDominion Express Commission.

Patron—Edwards

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.16 through 33.1-391.18, as follows:

CHAPTER 10.3.

TRANSDOMINION EXPRESS COMMISSION.

§ 33.1-391.16. Commission created; purpose.

There is hereby created a body corporate and a political subdivision of the Commonwealth to be known as the TransDominion Express Commission, hereinafter in this chapter known as "the Commission." The Commission shall have the responsibility within the TransDominion Corridor of (i) negotiating legal relationships required for operations, maintenance, pilot site, accountability, and governance; (ii) identifying needed construction, reconstruction, improvements, repairs, extensions, additions, restorations, acquisitions of real or personal property, rails, tracks, rights-of-way, terminals, bridges, tunnels, signals, and any other equipment, infrastructure, or facilities that are or may be used to provide for the transportation of passengers by rail in coordination with freight rail in the Commonwealth that the Commission determines to be in the public interest, hereinafter referred to as a "rail transportation project"; and (iii) determining financial viability and identifying funding revenue to finance or assist in financing any such rail project.

For purposes of this chapter, "TransDominion Corridor" means, generally, the intercity rail corridor from Bristol through Roanoke and Lynchburg, including branches extending from Lynchburg to Richmond and from Lynchburg to Washington, D.C., through Charlottesville.

§ 33.1-391.17. Composition of Commission; chairman and vice-chairman; quorum.

The initial voting members of the Commission shall consist of three members appointed by the Governor; one member of the House of Delegates, appointed by the Speaker of the House of Delegates; one member of the Senate, appointed by the Senate Committee on Rules; and one member from each of the following Planning District Commissions: Mount Rogers, New River Valley, Roanoke Valley, Northern Virginia, Rappahannock, Thomas Jefferson, District 11, Piedmont, Richmond Regional, and RADCO. Each Planning District Commission member shall also be a local elected official and selected by the Planning District Commission. The Director of the Department of Rail and Public Transportation shall serve as an ex-officio member of the Commission.

The initial members shall have the power to establish bylaws and requirements for membership. Such bylaws may include, without limitation, provision for membership of individual localities and minimum dues or other financial obligations required for voting privileges; however, the Commission shall continue to have three voting members appointed by the Governor, one member of the House of Delegates appointed by the Speaker of the House of Delegates, one member of the Senate appointed by the Senate Committee on Rules, and the Director of the Department of Rail and Public Transportation shall continue to serve as an ex-officio member of the Commission. The bylaws or other requirements for membership as established by the Commission shall not apply to the members appointed by the Governor or the Director of the Department of Rail and Public Transportation.

The members of the Commission appointed by the Governor shall serve at the pleasure of the Governor for terms of three years; members appointed by the Speaker of the House of Delegates and the Senate Committee on Rules shall serve at the pleasure of the Speaker and the Senate Committee on Rules, respectively, for terms of three years. No such member shall serve more than two consecutive terms. For the initial gubernatorial appointments only, one of the appointments may be for a term of two years and one of the appointments may be for a term of one year, so as to allow for staggered terms. Such initial one- or two-year terms shall not be included in the two-term limitation. Vacancies in appointments by the Governor shall be filled by gubernatorial appointment for any unexpired term.

The Commission shall annually elect from its membership a chairman and vice-chairman, who shall continue to hold such office until their respective successors are elected. A majority of the voting

INTRODUCED

SB863

3/24/10 2:20

members of the Commission plus one shall constitute a quorum.

§ 33.1-391.18. Powers of Commission.

The Commission shall have the following powers, together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Commission or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Commission's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from the United States and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or instrumentality of the Commonwealth;

6. To make loans or grants for purposes that are consistent with this chapter and otherwise to receive and expend moneys on behalf of the Commission;

7. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise, and to hold, encumber, sell, or otherwise dispose of such land or interest, for purposes consistent with this chapter;

8. To construct or acquire, by purchase, lease, contract, or otherwise, rail transportation facilities;

9. To enter into agreements or leases with public or private entities for the operation of rail transportation facilities it has acquired;

10. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

11. To the extent that funds are made available to the Commission to do so, to employ employees, agents, advisers, and consultants, including, without limitation, attorneys, financial advisers, engineers, and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation;

12. To establish and collect fees, charges, or other revenue for the use of the property, equipment, or facilities of the Commission, and to pledge such fees, charges, or other revenues to service debt authorized under this chapter; and

13. To the extent not inconsistent with other provisions of this chapter, and without limiting or restricting the powers otherwise given the Commission, to exercise all the powers given to transportation district commissions by § 15.2-4518, except the right to exercise the power of eminent domain.

Any TransDominion Express operations within the Virginia Railway Express service area shall coordinate all train operations with the Virginia Railway Express and any affected local jurisdiction.

No provision of this chapter shall be construed as authorizing the Commission to (i) impose fees, financial obligations, or mandates of any kind on any common carrier freight railroad without the express consent of the common carrier railroad or (ii) exercise the power of eminent domain.

2. That Chapter 1041 of the Acts of Assembly of 2003 is repealed.