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HOUSE BILL NO. 1061

Offered January 13, 2010

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A *BILL authorizing the issuance of Commonwealth of Virginia General Obligation Bonds pursuant to Article X, Section 9 (b) of the Constitution of Virginia in an amount not exceeding \$3,963,000,000 for the purpose of financing the costs of transportation capital projects, provided that issuance of the bonds is approved by a majority of the voters at the general election to be held on Tuesday, November 2, 2010.*

 Patron—Marshall, R.G.

 Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. § 1. Title.**

This Act shall be known and may be cited as the "Commonwealth of Virginia Transportation Bond Act of 2010."

§ 2. Authorization of bonds and BANs.

Subject to a favorable vote of a majority of the qualified voters voting on this Act at the November 2, 2010, general election as hereinafter provided, the Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia General Obligation Bonds, Series", in an aggregate principal amount not exceeding \$3,963,000,000. The Treasury Board is further authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of the bonds by the issuance of bond anticipation notes ("BANs"), including BANs issued as commercial paper.

§ 3. Purpose; projects.

The proceeds of the bonds and BANs, excluding amounts needed to pay issuance costs and other financing expenses, shall be used as provided in § 4 hereof for transportation capital projects as follows:

<i>Project</i>	<i>Cost</i>
Add four lanes (two in each direction) to the Hampton Roads Bridge Tunnel; or add them to a new structure parallel to the Hampton Roads Bridge Tunnel	\$2,000,000,000
Improvements on Interstate 81 for trucks that are required to stop at weigh stations	\$520,000,000
Extend Virginia Railway Express from Manassas to Haymarket and purchase rolling stock	\$300,000,000
Construct the Tri-County Connector for the Counties of Fairfax, Prince William, and Loudoun and acquire rights of way for mass transit along the Connector	\$555,000,000
Construct connector between Rte. 66 and Rte. 29 at Haymarket and widen Rte. 66 by an additional lane from Gainesville to the new connector	\$300,000,000
Improve the Washington Metropolitan Transit Authority's capital assets in the Commonwealth and purchase rolling stock	\$200,000,000
Widen Rte. 460 by adding one lane in the westbound lane and one lane in the eastbound lane west of Grundy to the Kentucky border	\$88,000,000
Total	\$3,963,000,000

The General Assembly hereby finds and determines that the estimated useful life of the capital projects described above is in excess of 21 years.

To the extent that the cost of any capital project is less than the amount allocated to such capital project, the Governor or the Governor's designee may increase the amount allocated to any other project included herein. No allocation to a capital project may be increased until it has been

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57 demonstrated to the satisfaction of the Governor or the Governor's designee that (a) the cost of the
58 capital project has been reduced to the extent reasonable, (b) the capital project has not been expanded
59 or enhanced beyond the scope originally approved, and (c) the capital project is suitable and adequate
60 for the scope originally intended. No increase in the amount allocated to any capital project shall
61 constitute an authorization for the issuance of bonds in an amount in excess of the aggregate amount
62 authorized hereunder.

63 § 4. Application of proceeds.

64 Proceeds (including any premium) of the bonds and any BANs (except the proceeds of (i) bonds the
65 issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall
66 be deposited by the State Treasurer in a special capital outlay fund in the State Treasury and shall be
67 disbursed only for the purpose for which the bonds or BANs have been issued. In the event that the
68 proceeds of the bonds or BANs exceed the cost of the projects as allocated in § 3, the Treasury Board
69 shall cause such excess proceeds to be applied to the retirement of bonds or BANs. The proceeds of (i)
70 bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding
71 BANs and any funds provided by the General Assembly, or available from any other source, for the
72 purpose shall be used to pay such BANs, refunded bonds, and refunded BANs.

73 The proceeds of the bonds and any refunding bonds or BANs are hereby appropriated for
74 disbursement from the State Treasury for the current biennium pursuant to Article X, Section 7 of the
75 Constitution of Virginia and § 2.2-1819 of the Code of Virginia. The general conditions and general
76 provisions of the general appropriation act enacted pursuant to Chapter 15 of Title 2.2 of the Code of
77 Virginia, in effect from time to time, and all of the terms and conditions contained therein shall apply to
78 the capital projects listed in § 3. The Governor or his designee is hereby authorized to increase the
79 appropriation for any project listed in § 3 by the amount of the proceeds of donations, gifts, grants, or
80 other nongeneral funds paid into the state treasury in excess of such appropriation.

81 § 5. Details; sale of bonds and BANs.

82 The bonds shall be dated, shall mature at such time or times not exceeding 21 years from their date
83 or dates, and may be made redeemable before their maturity or maturities at such price or prices or
84 within such price parameters, all as may be determined by the Treasury Board, by and with the consent
85 of the Governor. The principal of the bonds shall be amortized, by payment into a sinking fund or
86 otherwise, in annual installments. Any such sinking fund shall not be appropriated for any other
87 purpose. The first annual installment of principal of the bonds shall become due not later than one-tenth
88 of the term of the bonds, and no installment of principal of the bonds shall be more than twice the
89 smallest previous installment. The bonds shall be in such form, shall bear interest at such rate or rates,
90 either at fixed rates or at rates established by formula or other method, and may contain such other
91 provisions, all as the Treasury Board or the State Treasurer, when authorized by the Treasury Board,
92 may determine. The principal of and premium, if any, and interest on the bonds and BANs shall be
93 payable in lawful money of the United States of America. Bonds and BANs may be certificated or
94 uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of
95 such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a
96 record of the persons entitled to the bonds and BANs. Bonds and BANs may be issued under a system
97 of book entry for recording the ownership and transfer of ownership of rights to receive payments on
98 the bonds and BANs. The Treasury Board shall fix the denomination or denominations of the bonds and
99 the place or places of payment of principal, premium, if any, and interest, which may be at the office of
100 the State Treasurer or at any one or more banks or trust companies within or without the
101 Commonwealth.

102 The Treasury Board may sell the bonds and any BANs in such manner, either by competitive
103 bidding, negotiated sale, or private placement, and for such price as it may determine, by and with the
104 consent of the Governor, to be in the interest of the Commonwealth.

105 At the discretion of the Treasury Board, bonds and BANs may be issued at one time or in part from
106 time to time and may be issued and sold at the same time with other general obligation bonds and bond
107 anticipation notes of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), or (c)
108 of the Constitution of Virginia, either as separate issues, as a combined issue designated
109 "Commonwealth of Virginia General Obligation Bonds [Bond Anticipation Notes], Series 20....," or as a
110 combination of both. The bonds and BANs shall be signed on behalf of the Commonwealth by the
111 Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser
112 seal of the Commonwealth or a facsimile thereof. In the event that the bonds or BANs bear the facsimile
113 signature of the State Treasurer, they shall be signed by such administrative assistant as the State
114 Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by
115 the Treasury Board. If any officer whose signature or facsimile signature shall appear on any bonds or
116 BANs shall cease to be such officer before the delivery, such signature or such facsimile shall
117 nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office
118 until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by,

such persons as at the actual time of the execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. Refunding.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this Act or otherwise pursuant to Article X, Section 9 (b) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the bonds or BANs to be refunded are then subject to redemption. Any escrow or trust fund established with the proceeds from the sale of refunding bonds shall be irrevocably pledged to the payment of the bonds to be refunded, and shall be used solely to pay such bonds or BANs at maturity or upon redemption or for the purchase of not less than all of the bonds or BANs to be refunded. Any such escrow or trust fund shall constitute a special fund for the payment of such refunded bonds or BANs, and such refunded bonds or BANs, shall not be included for the purposes of determining any limitations upon the amount of bonded indebtedness of the Commonwealth that may be incurred pursuant to Article X, Section 9 (b) of the Constitution of Virginia.

§ 7. Investments and Contracts.

A. Pending the application of the proceeds of the bonds or BANs to the purpose for which they have been authorized, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs. The Treasury Board may, however, direct that the excess interest received from the investment of the proceeds of the bonds or any BANs be transferred to the general fund of the State Treasury.

B. The Commonwealth may enter into any contract or other arrangement related to the bonds or BANs that is determined to be necessary or appropriate on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements, or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A of this section and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B of this section.

§ 8. Security for bonds and BANs.

The full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs issued under this Act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on such bonds or BANs to be refunded thereby. If sufficient funds are not appropriated in the general appropriations act for any fiscal year for the timely payment of the principal of and the interest on the bonds, any refunding bonds, or any BANs, there shall be set apart by direction of the Governor, from the first general fund revenues received during such fiscal year and thereafter, a sum sufficient to pay such principal and interest.

§ 9. Expenses.

All expenses incurred under this Act shall be paid from the proceeds of the bonds or any refunding bonds or any BANs or from any other available funds as the Treasury Board shall determine.

§ 10. Exemption of interest from tax.

The bonds and BANs issued under the provisions of this Act, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof. The interest on the bonds and any refunding bonds or BANs may be subject to inclusion in gross income of the holders thereof for federal income tax purposes.

180 *§ 11. Referendum.*

181 *The question of the effectiveness of this Act and the authorization of the bonds shall be submitted to*
182 *the qualified voters of the Commonwealth at the general election to be held on Tuesday, November 2,*
183 *2010. The referendum shall be supervised and held, notice thereof given, ballots prepared, returns made*
184 *and certified, votes canvassed, and results ascertained and made known as provided by law. The ballots*
185 *to be used at the election shall pose the question in substantially the following form:*

186 *QUESTION: Shall Chapter ___, Acts of the General Assembly of 2010, authorizing the issuance of*
187 *general obligation bonds of the Commonwealth of Virginia in the maximum amount of \$3,963,000,000,*
188 *pursuant to Article X, Section 9 (b) of the Constitution of Virginia for transportation capital projects,*
189 *take effect?*

190 *The State Board of Elections shall cause to be sent to the electoral boards of each county and city*
191 *sufficient copies of the full text of this Act and the question contained herein for the officers of election*
192 *to post in each polling place on election day. After the election, the State Board of Elections shall*
193 *without delay transmit to the Governor an official certified copy of the report of the whole number of*
194 *votes cast at the election for and against the Act.*

195 *If a majority of those voting thereon shall vote in favor of this Act, this Act shall take effect and the*
196 *bonds may be issued as hereinabove provided. If a majority of those voting thereon shall vote against*
197 *this Act, this Act shall not take effect and the bonds shall not be issued.*

198 *The expenses incurred in conducting this election shall be defrayed as in the case of election of*
199 *members of the General Assembly.*

200 *§ 12. Severability.*

201 *The provisions of this Act or the application thereof to any person or circumstance which are held*
202 *invalid shall not affect the validity of other provisions or applications of this Act that can be given effect*
203 *without the invalid provisions or applications.*