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HOUSE BILL NO. 1395

Offered February 25, 2010

A *BILL to amend the Code of Virginia by adding sections numbered 56-566.1:01 and 56-575.9:2, relating to grants for qualifying facilities and qualifying projects under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002.*

Patron—Massie

Introduced at the request of the Governor

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 56-566.1:01 and 56-575.9:2 as follows:

§ 56-566.1:01. State agencies and authorities authorized to enter into certain grant agreements.

A. As used in this section, unless the context requires a different meaning:

"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, and (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1.

B. In addition to all other powers authorized under this chapter, a responsible public entity that is a state agency or a state authority may, upon approval of the Governor, enter into an agreement with a private entity for the development of a transportation facility, which agreement provides for the private entity to be paid performance grants in accordance with the terms of the agreement. The source of the grant payments shall be a portion of the growth in state tax revenues attributable to economic activity generated by, facilitated by, or resulting from the development of the transportation facility. State tax revenues attributable to such economic activity may include, but shall not be limited to, state tax revenues from (i) wages, salaries, and contract payments paid to persons in the development of the transportation facility; (ii) purchases of machinery, equipment, and materials in the development of the transportation facility; (iii) insurance premiums paid; (iv) the production of goods or services at business locations within a geographical area surrounding or adjacent to the transportation facility; and (v) multiplier or spin-off economic activity relating to the development of the transportation facility including, but not limited to, wages, salaries, and contract payments paid to multiplier or spin-off jobs.

C. Any agreement entered into pursuant to this section shall, among other things, (i) detail the state tax revenues anticipated to be collected that are attributable to economic activity generated by, facilitated by, or resulting from the development of the transportation facility and the portion thereof to be paid to the private entity and (ii) state the total amount of the grants to be paid to the private entity, including the maximum amount of grants to be paid in any fiscal year.

D. Before any state agency or state authority enters into an agreement pursuant to this section, the Secretary of Transportation shall certify in writing to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance (i) that the present value of the state tax revenues anticipated to be collected that are attributable to economic activity generated by, facilitated by, or resulting from the development of the transportation facility are anticipated to be at least 100 percent greater than the present value of the proposed grant payments to the private entity, (ii) that the private entity, due to the financial commitment involved on its part and the associated investment risks involved, likely will not develop the transportation facility unless the Commonwealth enters into an agreement with the private entity to reduce the private entity's investment risks through the payment of performance grants as consideration for the development of the transportation facility and the associated investment risks involved, and (iii) the anticipated rate of return to be received on the proposed grant payments as measured by the state tax revenues anticipated to be collected and retained by the Commonwealth that are attributable to economic activity generated by, facilitated by, or resulting from the development of the transportation facility.

E. Upon an agreement being entered into, the Comptroller shall establish in the state treasury a special nonreverting fund to be known as the "Special Grant Fund for the . . . Transportation Facility," hereafter referred to as "the Fund." The Fund shall consist of the quarterly deposits described under this subsection. Any other moneys designated for the Fund from any other source, public or private, shall be paid into the state treasury to the credit of the Fund. Interest earned on moneys in the Fund

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59 shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest
60 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund
61 until all required grants have been paid to the private entity. All deposits to the Fund shall be subject to
62 appropriation by the General Assembly.

63 Moneys in the Fund shall be used solely for the payment of grants to a private entity that has
64 entered into an agreement pursuant to this section. Grant payments from the Fund shall be made by the
65 State Treasurer on warrants issued by the Comptroller at the request of the Secretary of Transportation.

66 For purposes of funding the grant payments, the Secretary of Finance, in consultation with the Tax
67 Commissioner, shall annually determine the amount to be deposited into the Fund, which amount shall
68 be an estimate equal to 50 percent of the growth in state tax revenues for the immediately preceding
69 fiscal year that is attributable to economic activity generated by, facilitated by, or resulting from the
70 development of the transportation facility. The Secretary of Finance by August 31 of each year shall
71 provide a written certification to the Governor, the Comptroller, and the General Assembly of the
72 amount to be deposited into the Fund in the current fiscal year. The Comptroller shall then deposit such
73 amount into the Fund by making four equal deposits into the Fund on the fifteenth of September,
74 December, March, and June. All deposits into the Fund shall be made from the general fund and not
75 any special fund, including but not limited to the Transportation Trust Fund established under
76 § 33.1-23.03:1.

77 F. A responsible public entity that is a county, city, or town, or a local government agency or local
78 government authority, may, upon approval of the governing body of the locality as provided in a duly
79 adopted resolution, join in the agreement entered into between the private entity and the state agency or
80 state authority. In such case, any agreement under this section shall also detail the local tax revenues
81 anticipated to be collected that are attributable to economic activity generated by, facilitated by, or
82 resulting from the development of the transportation facility and the portion of the growth in such
83 revenues to be paid to the private entity as grants.

84 § 56-575.9:2. State agencies and authorities authorized to enter into certain grant agreements.

85 A. As used in this section, unless the context requires a different meaning:

86 "Secretary" means one of the "Governor's Secretaries" as defined in subsection E of § 2.2-200.

87 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter
88 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)
89 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, and (iv)
90 insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1.

91 B. In addition to all other powers authorized under this chapter, a responsible public entity that is a
92 state agency or a state authority may, upon approval of the Governor, enter into an agreement with a
93 private entity for the development of a qualifying project, which agreement provides for the private
94 entity to be paid performance grants in accordance with the terms of the agreement. The source of the
95 grant payments shall be a portion of the growth in state tax revenues attributable to economic activity
96 generated by, facilitated by, or resulting from the development of the qualifying project. State tax
97 revenues attributable to such economic activity may include, but shall not be limited to, state tax
98 revenues from (i) wages, salaries, and contract payments paid to persons in the development of the
99 qualifying project; (ii) purchases of machinery, equipment, and materials in the development of the
100 qualifying project; (iii) insurance premiums paid; (iv) the production of goods or services at business
101 locations within a geographical area surrounding or adjacent to the qualifying project; and (v)
102 multiplier or spin-off economic activity relating to the development of the qualifying project including,
103 but not limited to, wages, salaries, and contract payments paid to multiplier or spin-off jobs.

104 C. Any agreement entered into pursuant to this section shall, among other things, (i) detail the state
105 tax revenues anticipated to be collected that are attributable to economic activity generated by,
106 facilitated by, or resulting from the development of the qualifying project and the portion thereof to be
107 paid to the private entity and (ii) state the total amount of the grants to be paid to the private entity,
108 including the maximum amount of grants to be paid in any fiscal year.

109 D. Before any state agency or state authority enters into an agreement pursuant to this section, the
110 Secretary of Transportation shall certify in writing to the Governor and the chairmen of the House
111 Committee on Appropriations and the Senate Committee on Finance (i) that the present value of the
112 state tax revenues anticipated to be collected that are attributable to economic activity generated by,
113 facilitated by, or resulting from the development of the qualifying project are anticipated to be at least
114 100 percent greater than the present value of the proposed grant payments to the private entity, (ii) that
115 the private entity, due to the financial commitment involved on its part and the associated investment
116 risks involved, likely will not develop the qualifying project unless the Commonwealth enters into an
117 agreement with the private entity to reduce the private entity's investment risks through the payment of
118 performance grants as consideration for the development of the qualifying project and the associated
119 investment risks involved, and (iii) the anticipated rate of return to be received on the proposed grant
120 payments as measured by the state tax revenues anticipated to be collected and retained by the

Commonwealth that are attributable to economic activity generated by, facilitated by, or resulting from the development of the transportation facility.

E. Upon an agreement being entered into, the Comptroller shall establish in the state treasury a special nonreverting fund to be known as the "Special Grant Fund for the . . . Qualifying Project," hereafter referred to as "the Fund." The Fund shall consist of the quarterly deposits described under this subsection. Any other moneys designated for the Fund from any other source, public or private, shall be paid into the state treasury to the credit of the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. 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 until all required grants have been paid to the private entity. All deposits to the Fund shall be subject to appropriation by the General Assembly.

Moneys in the Fund shall be used solely for the payment of grants to a private entity that has entered into an agreement pursuant to this section. Grant payments from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller at the request of the applicable Secretary.

For purposes of funding the grant payments, the Secretary of Finance, in consultation with the Tax Commissioner, shall annually determine the amount to be deposited into the Fund, which amount shall be an estimate equal to 50 percent of the growth in state tax revenues for the immediately preceding fiscal year that is attributable to economic activity generated by, facilitated by, or resulting from the development of the qualifying project. The Secretary of Finance by August 31 of each year shall provide a written certification to the Governor, the Comptroller, and the General Assembly of the amount to be deposited into the Fund in the current fiscal year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into the Fund on the fifteenth of September, December, March, and June. All deposits into the Fund shall be made from the general fund and not any special fund, including but not limited to the Transportation Trust Fund established under § 33.1-23.03:1.

F. A responsible public entity that is a county, city, or town, or a local government agency or local government authority, may, upon approval of the governing body of the locality as provided in a duly adopted resolution, join in the agreement entered into between the private entity and the state agency or state authority. In such case, any agreement under this section shall also detail the local tax revenues anticipated to be collected that are attributable to economic activity generated by, facilitated by, or resulting from the development of the qualifying project and the portion of the growth in such revenues to be paid to the private entity as grants.