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SENATE BILL NO. 181

Offered January 13, 2010

Prefiled January 11, 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.*

Patrons—Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Obenshain, Quayle, Ruff, Stuart, Vogel, Wagner, Wampler and Watkins

Referred to Committee on Finance

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 state taxes and fees, including but not limited to 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) describe in detail the transportation facility to be developed and include plans and specifications therefor; (ii) 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; (iii) 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; and (iv) state the anticipated completion date for the development of the transportation facility.

D. Prior to any state agency or state authority entering into an agreement pursuant to this section, the Secretary of Transportation shall certify to the Governor in writing (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 greater than the present value of the proposed grant payments to the private entity and (ii) 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 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

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58 until all required grants have been paid to the private entity. All deposits to the Fund shall be subject to
59 appropriation by the General Assembly.

60 Moneys in the Fund shall be used solely for the payment of grants to a private entity that has
61 entered into an agreement pursuant to this section. Grant payments to the private entity shall be made
62 from the Fund in each fiscal year for which a grant payment is required pursuant to the agreement.
63 Grant payments from the Fund shall be made by the State Treasurer on warrants issued by the
64 Comptroller at the request of the Secretary of Transportation.

65 For purposes of funding the grant payments, the Secretary of Finance shall annually determine the
66 amount to be deposited into the Fund, which amount shall be an estimate of the growth in state tax
67 revenues for the fiscal year that is attributable to economic activity generated by, facilitated by, or
68 resulting from the development of the transportation facility and that is required to be paid as grants to
69 the private entity as detailed in the agreement entered into pursuant to this section. The Secretary of
70 Finance by August 31 of each year shall provide a written certification to the Governor, the
71 Comptroller, and the General Assembly of the amount to be deposited into the Fund in the current fiscal
72 year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into
73 the Fund on the fifteenth of September, December, March, and June.

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

81 § 56-575.9:2. State agencies and authorities authorized to enter into certain grant agreements.

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

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

84 "State tax revenues" means the net revenues collected from state taxes and fees, including but not
85 limited to the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual
86 income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant
87 to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, and (iv) insurance license tax pursuant to Chapter 25
88 (§ 58.1-2500 et seq.) of Title 58.1.

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

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

109 D. Prior to any state agency or state authority entering into an agreement pursuant to this section,
110 the applicable Secretary shall certify to the Governor in writing (i) that the present value of the state
111 tax revenues anticipated to be collected that are attributable to economic activity generated by,
112 facilitated by, or resulting from the development of the qualifying project are anticipated to be greater
113 than the present value of the proposed grant payments to the private entity and (ii) the anticipated rate
114 of return to be received on the proposed grant payments as measured by the state tax revenues
115 anticipated to be collected and retained by the Commonwealth that are attributable to economic activity
116 generated by, facilitated by, or resulting from the development of the qualifying project.

117 E. Upon an agreement being entered into, the Comptroller shall establish in the state treasury a
118 special nonreverting fund to be known as the "Special Grant Fund for the . . . Qualifying Project,"
119 hereafter referred to as "the Fund." The Fund shall consist of the quarterly deposits described under

120 *this subsection. Any other moneys designated for the Fund from any other source, public or private,*
121 *shall be paid into the state treasury to the credit of the Fund. Interest earned on moneys in the Fund*
122 *shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest*
123 *thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund*
124 *until all required grants have been paid to the private entity. All deposits to the Fund shall be subject to*
125 *appropriation by the General Assembly.*

126 *Moneys in the Fund shall be used solely for the payment of grants to a private entity that has*
127 *entered into an agreement pursuant to this section. Grant payments to the private entity shall be made*
128 *from the Fund beginning in each fiscal year for which a grant payment is required pursuant to the*
129 *agreement. Grant payments from the Fund shall be made by the State Treasurer on warrants issued by*
130 *the Comptroller at the request of the applicable Secretary.*

131 *For purposes of funding the grant payments, the Secretary of Finance shall annually determine the*
132 *amount to be deposited into the Fund, which amount shall be an estimate of the growth in state tax*
133 *revenues for the fiscal year that is attributable to economic activity generated by, facilitated by, or*
134 *resulting from the development of the qualifying project and that is required to be paid as grants to the*
135 *private entity as detailed in the agreement entered into pursuant to this section. The Secretary of*
136 *Finance by August 31 of each year shall provide a written certification to the Governor, the*
137 *Comptroller, and the General Assembly of the amount to be deposited into the Fund in the current fiscal*
138 *year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into*
139 *the Fund on the fifteenth of September, December, March, and June.*

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