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**SENATE BILL NO. 76**

Offered January 13, 2010

Prefiled January 5, 2010

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 and 33.1-391.17, relating to transportation funding for the Salem Highway Construction District.*

Patrons—Reynolds; Delegate: Armstrong

Referred to Committee on Transportation

**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 and 33.1-391.17, as follows:**

**CHAPTER 10.3.****SALEM HIGHWAY CONSTRUCTION DISTRICT TRANSPORTATION FUNDING.**

§ 33.1-391.16. *Salem Highway Construction District Transportation Revenue Fund established.*

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Salem Highway Construction District Transportation Revenue Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. 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.*

B. *Moneys in the Fund shall be allocated as follows:*

1. *Fifty percent for construction and maintenance of Interstate Route 73 in the Salem Highway Construction District.*

2. *Fifty percent for construction and maintenance of Interstate Route 81 in the Salem Highway Construction District.*

§ 33.1-391.17. *Revenues attributable to a portion of state tax revenues deposited into the Salem Highway Construction District Transportation Revenue Fund.*

A. *As used in this section, unless the context clearly shows otherwise:*

"Base number of cargo containers" *means the cargo containers in the first fiscal year, whole or partial, that the port is operating. If such first year is less than 12 months, then the base number of cargo containers shall be pro rated for a full 12 months.*

"Cargo container" *means the number of cargo containers loaded onto or unloaded at the port for commerce in a fiscal year, measured in 20-foot-equivalent units.*

"Fund" *means the Salem Highway Construction District Transportation Revenue Fund established pursuant to § 33.1-391.16.*

"Net revenues" *means the gross revenues less the applicable portion of any refunds.*

"Port" *means the Inland Port in Montgomery County when it is constructed and operating.*

"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, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1.*

B. 1. *By the last day of September following the first fiscal year that the Port is operating, there shall be deposited into the Salem Highway Construction District Transportation Revenue Fund established under § 33.1-391.16, 10 percent of state tax revenues attributable to economic activity generated or facilitated by the Port in the first fiscal year that the Port is operating, as determined by the Secretary of Finance, in consultation with the Secretary of Transportation. The Secretary of Finance shall provide a written certification of such amount to the Comptroller by August 31.*

2. *For the fiscal year following the first fiscal year in which the Port begins operating, and for each fiscal year thereafter, there shall be deposited into the Salem Highway Construction District Transportation Revenue Fund established under § 33.1-391.16 a portion of the growth in state taxes attributable to economic activity generated or facilitated by the Port. The amount deposited into the Fund in each fiscal year shall be determined using the following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by the Port/base number of cargo containers.*

*The General Assembly intends for the revenue ratio to be a measure of the state revenues attributable to economic activity of the Port on a per-cargo-container basis.*

3. *For each fiscal year following the first fiscal year that the Port is operating, the amount deposited to the Fund shall be computed by:*

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- 59     *a. First multiplying the revenue ratio by the increase in cargo in the most recently ended fiscal year*  
60 *over the number of cargo containers in the fiscal year immediately preceding, and*  
61     *b. Second multiplying such product by 30 percent (.30).*  
62     *C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine*  
63 *the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues*  
64 *attributable to economic activity generated or facilitated by the Port, the Secretary shall include state*  
65 *tax revenues from (i) Port operations, including but not limited to revenues from truck and rail*  
66 *transportation, insurance, warehousing, and storage; (ii) the production in Virginia of goods carried*  
67 *from the Port for export; (iii) imports sold to citizens of the Commonwealth or used as inputs by*  
68 *businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv)*  
69 *employee compensation, fuel costs, business and professional services, power, and communications*  
70 *relating to the factors set forth in clauses (i) through (iii). The Secretary shall determine the revenue*  
71 *ratio no later than January 1, 2011, and shall promptly report the same to the chairmen of the House*  
72 *Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance.*  
73     *D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine*  
74 *the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this*  
75 *section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by*  
76 *August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four*  
77 *equal deposits into the Fund on the fifteenth of September, December, March, and June.*  
78     *E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant*  
79 *to this section shall not exceed \$50 million in any fiscal year.*  
80     **2. That the revenues generated by the provisions of this act shall not be used to calculate or**  
81 **reduce the share of local, federal, and state revenues otherwise available to any locality. Further,**  
82 **such revenues and moneys shall not be included in any computation of, or formula for, a locality's**  
83 **ability to pay for public education, upon which appropriations of state revenues to local**  
84 **governments for public education are determined.**  
85     **3. That each county or city that receives revenue from or receives benefits from revenue**  
86 **appropriated pursuant to the provisions of this act shall for each fiscal year in which it receives**  
87 **such revenue or benefits expend or disburse for transportation purposes an amount (computed**  
88 **without regard to any revenues generated in the fiscal year from such taxes) that is at least equal**  
89 **to the total amount expended or disbursed for transportation purposes by the county or city in its**  
90 **fiscal year that began in calendar year 2009.**  
91     **4. That should any portion of this act be held unconstitutional by a court of competent**  
92 **jurisdiction, the remaining portions of this act shall remain in effect.**