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HOUSE BILL NO. 1582

Offered January 12, 2011

Prefiled January 5, 2011

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 33.1 an article numbered 1.2, consisting of sections numbered 33.1-23.6, 33.1-23.7, and 33.1-23.8, relating to transportation funding; Virginia Transportation Infrastructure Bank.

 Patron—Cosgrove

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 33.1 an article numbered 1.2, consisting of sections numbered 33.1-23.6, 33.1-23.7 and 33.1-23.8 as follows:

*Article 1.2.**Virginia Transportation Infrastructure Bank.**§ 33.1-23.6. Definitions.*

As used in this article unless the context requires a different meaning:

"Creditworthiness" means no history of default on a debt obligation, bankruptcy, insolvency, or liquidation by the project sponsor.

"Dedicated revenue source" means special assessments, tax increment financing, any portion of a tax or fee, or any other means by which a local government, governmental authority, or private sector partner generates funds that are dedicated to the purpose of retiring the debt obligation created by the secured loan.

"Eligible project" means any construction, reconstruction, rehabilitation, replacement, or enhancement of any interstate, state highway, toll road, tunnel, local road, bridge, airport or port facility, and the construction, reconstruction, rehabilitation, replacement, or acquisition of any transit and passenger or freight rail facility or vehicle.

"Eligible project costs" means development activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities, financing costs, and construction, reconstruction, rehabilitation, replacement, acquisition of real property, environmental mitigation, construction contingencies, and acquisition of equipment.

"Project sponsor" means any county, city, town, or other local governmental authority, other governmental authority, planning district, transportation authority or commission, railroad, transit company, airport, port and private sector entity that is involved in the construction, maintenance and financing of transportation infrastructure projects and applies for a secured loan from the Virginia Transportation Infrastructure Bank.

"Secured loan" means direct financial assistance from the Virginia Transportation Infrastructure Bank that is required to be repaid out of project cash flows over a period of time and that is provided to a project sponsor for all or part of the eligible costs of a project.

"Substantial project completion" means the opening of a project for vehicular or passenger traffic.

§ 33.1-23.7. Virginia Transportation Infrastructure Bank established.

A. There is hereby created in the state treasury a special nonreverting, revolving loan fund known as the Virginia Transportation Infrastructure Bank, hereafter referred to as "VTIB." VTIB shall be established on the books of the Comptroller. All funds designated for VTIB shall be paid into the treasury and credited to VTIB. Repayment of loans and interest earned on the moneys in VTIB shall be credited to VTIB. Any moneys remaining in VTIB, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in VTIB.

B. There shall be deposited in VTIB the revenues generated through the privatization of the Commonwealth's ABC stores. The Virginia Department of Transportation may make a one-time allocation of a percentage of construction revenues generated through drawing down construction cash reserves to be deposited in VTIB. Any and all other funds appropriated by the General Assembly to VTIB shall be paid to the State Treasury and be credited to VTIB upon appropriation. Revenues deposited in VTIB shall be used solely for the purposes enumerated in subsections C, D, and E.

C. Moneys deposited in VTIB may be used, pursuant to the State Revenue Bond Act (§ 33.1-267 et seq.) for the purpose of issuing bonds in an amount not to exceed \$4 billion to further the purposes enumerated in subsections D and E.

D. Except as provided in subsection E, moneys deposited in VTIB shall be used for the purpose of

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59 making secured loans to finance eligible transportation infrastructure projects, as set forth in subsection
60 C of § 33.1-24.4, to cities, counties, towns, and other local government authorities; other governmental
61 authorities; planning districts; transportation authorities and commissions; railroads; transit companies;
62 airports; ports; and private sector entities involved in the construction and financing of transportation
63 infrastructure projects. The secured loans will be applicable to eligible projects costs, as set forth in
64 subsection E of § 33.1-24.4.

65 1. Secured loans may be for any or all of the eligible project costs.

66 2. The secured loan shall be payable, in whole or in part, from bonds, tolls, user fees, or other
67 dedicated revenue sources, including, but not limited to, special assessments, tax increment financing,
68 and any portion of a tax or fee that produces revenues that is pledged for the purpose of retiring debt
69 on the project.

70 a. The interest rate on the secured loan shall be determined by the Board of Directors pursuant to
71 subdivision F 3.

72 b. The Board of Directors, pursuant to subdivision F 4 shall establish a repayment schedule for each
73 secured loan, with repayment beginning no later than five years following substantial project
74 completion, and a final maturity date of at least 20 years, but not more than 30 years following
75 substantial completion of the project. The final maturity date will be determined on a project by project
76 basis by the Board of Directors.

77 3. Each loan from VTIB shall be evidenced by appropriate bonds or notes of the entity responsible
78 for the project payable to VTIB. Bonds or notes of local governments shall have been duly authorized
79 by the local government and executed by its authorized legal representative.

80 4. The secured loan will be subordinate to any other senior debt obligations incurred on behalf of
81 the project except in the event of bankruptcy, insolvency, or liquidation of the obligor.

82 5. The Board of Directors, pursuant to subdivision F 4 may at any time following substantial project
83 completion, defer payment if the project is unable to generate sufficient revenues to pay the scheduled
84 loan repayments of principal and interest on the secured loan, provided that the project meet the agreed
85 upon criteria established by the Board for repayment, and aforementioned criteria includes standards
86 for reasonable assurance of repayment.

87 6. Any excess revenues remaining after satisfying the scheduled debt service requirements on the
88 project obligations and secured loan may be applied to prepayment of the secured loan without penalty.

89 E. A portion of the funds in the Virginia Transportation Infrastructure Bank shall be used to make
90 one-time grant payments for county, city, and town governments to finance eligible transportation
91 infrastructure projects.

92 F. Administration of VTIB shall be by the Board of Directors within the Secretary of
93 Transportation's Office. The Secretary of Transportation will serve as Chairman of the Board of
94 Directors. The Secretary of Finance will serve as Vice-Chairman. The Commissioner of the Virginia
95 Department of Transportation will appoint two members to the Board who are professional staff
96 members from within the Department, and the Director of the Department of Rail and Public
97 Transportation will appoint one member to the Board who is a professional staff member from within
98 the Department. The Governor will appoint one member from the private sector who is an expert on
99 infrastructure financing. The State Treasurer will serve as a nonvoting ex officio member, empowered to
100 vote only in circumstances where the remaining members' vote is evenly split.

101 1. The Board will set all policies and regulations for the administration of the VTIB.

102 2. The Board is empowered as the final authority for approving all secured loans and grants from
103 VTIB.

104 3. The Board will determine the applicable interest rate for all loans from VTIB. The interest rate
105 will be determined as a percentage of the market rate dependent on market conditions and a project's
106 creditworthiness.

107 4. The Board will set a repayment schedule for all loans from VTIB and is vested with the sole
108 authority to defer loan payments.

109 § 33.1-23.8. Eligibility and project selection.

110 A. Cities, counties, towns, and other local government authorities, other governmental authorities,
111 planning districts, transportation authorities and commissions, railroads, transit companies, airports,
112 ports, and private sector entities involved in the construction and financing of transportation
113 infrastructure projects are eligible to apply for a secured loan through VTIB.

114 B. Cities, counties, and towns are eligible to apply for a grant through VTIB.

115 C. Eligible projects for a secured loan include:

116 1. The construction, reconstruction, rehabilitation, replacement, or enhancement of any interstate,
117 state highway, toll road, tunnel, local road, bridge, airport or port facility.

118 2. The construction, reconstruction, rehabilitation, replacement, or acquisition of any transit and
119 passenger or freight rail facility or vehicle.

120 D. Eligible projects for a grant include those pursuant to subsection C and any safety or

pedestrian-related enhancements or improvements that can be directly tied to economic development beyond job creation during construction.

E. Eligible project costs include:

1. Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

2. Financing costs, including fees, funding of reserve accounts, and interest payments during construction; and.

3. Construction, reconstruction, rehabilitation, replacement, and acquisition of real property, environmental mitigation, construction contingencies, and acquisition of equipment.

F. All applicants for a secured loan or grant must file an application with the Secretary of Transportation's Office for review by the Board of Directors. The application must include all items determined by the Board in policies and regulations to be necessary and appropriate to determine whether or not to advance the secured loan or grant for project funding.

G. All applicants for a secured loan must demonstrate, among other things, as determined by the Board, the availability of dedicated revenue sources to retire the debt obligation, as well as the project's creditworthiness.

H. All applicants for a grant must demonstrate, among other things, as determined by the Board, that a grant is the sole method available for funding a project and that the project is directly linked to economic development beyond job creation during construction.

I. The Board will establish the specific criteria upon which a determination for approval for a secured loan or grant shall be made. Generally, the project must be of local, regional, or statewide significance, and it must meet the goal of generating economic benefits through enhancing the state transportation network. Other factors for a loan will include, but not be limited to, the creditworthiness of the project and whether or not the secured loan will enable the project to be completed at an earlier date than otherwise feasible without the secured loan.

J. All projects for which a secured loan or grant is approved must meet the requirements enumerated in the policies and regulations set forth by the Board of Directors.