

11103939D

SENATE BILL NO. 1446

Offered January 21, 2011

A *BILL to amend and reenact §§ 2.2-1514, as it is currently effective and as it may become effective, 33.1-23.05, 33.1-23.1, 33.1-23.4:01, 33.1-268, 33.1-269, 33.1-276, 33.1-277, and 33.1-280 of the Code of Virginia; to amend and reenact § 2 of the second enactment of Chapter 896 of the Acts of Assembly of 2007; and to amend the Code of Virginia by adding a section numbered 2.2-1509.4, by adding in Chapter 1 of Title 33.1 an article numbered 1.2, consisting of sections numbered 33.1-23.6 through 33.1-23.13, and an article numbered 1.3, consisting of sections numbered 33.1-23.14 through 33.1-23.25, and by adding a section numbered 33.1-221.1:1.3, relating to transportation funding.*

Patrons—Wampler, Colgan, Herring, Houck, Martin, McDougle, McWaters, Newman, Norment, Northam, Puckett, Reynolds, Stanley, Stosch, Stuart, Vogel, Wagner and Watkins

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1514, as it is currently effective and as it may become effective, 33.1-23.05, 33.1-23.1, 33.1-23.4:01, 33.1-268, 33.1-269, 33.1-276, 33.1-277, and 33.1-280 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-1509.4, by adding in Chapter 1 of Title 33.1 an article numbered 1.2, consisting of sections numbered 33.1-23.6 through 33.1-23.13, and an article numbered 1.3, consisting of sections numbered 33.1-23.14 through 33.1-23.25, and by adding a section numbered 33.1-221.1:1.3 as follows:

§ 2.2-1509.4. Assignment of general fund revenue growth for transportation.

In submitting "The Budget Bill" pursuant to § 2.2-1509, in years when the projected general fund revenues for a fiscal year or years are at least five percent greater than the projected general fund revenues for the immediately preceding fiscal year, the Governor may elect to provide appropriations from growth in general fund revenues to the Transportation Trust Fund for aviation, port, mass transit, and highway projects. Appropriations pursuant to this section shall not exceed two percent of the projected general fund growth. Such recommendations are in addition to any other funds allocated to the Commonwealth Transportation Fund.

§ 2.2-1514. (Contingent expiration date - see Editor's notes) Assignment of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act. Such term shall not include any expenditures relating to transportation, including but not limited to transportation maintenance.

B. At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to § 2.2-813 an amount for deposit to the Virginia Transportation Infrastructure Fund pursuant to § 33.1-23.8 equal to two-thirds of any general fund revenue surplus in excess of the official general fund revenue budget estimate as reported at the end of the year on the monthly general fund statement of revenue collections issued by the Secretary of Finance. Such assignment shall be made only after the full amount required for the Revenue Stabilization Fund deposit pursuant to § 2.2-1829 has been assigned.

C. At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to § 2.2-813 as follows: one-third of the remaining amount of the general fund balance that is not otherwise restricted, committed, or assigned for other usage within the general fund shall be assigned by the Comptroller for nonrecurring expenditures, and two-thirds shall be assigned for deposit into the Transportation Trust Fund. No such assignment shall be made unless the full amounts required for other restrictions, commitments, or assignments including but not limited to (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829 amounts assigned pursuant to the provisions of subsection B, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv) (a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended

INTRODUCED

SB1446

58 appropriations to certain public institutions of higher education pursuant to § 2.2-5005, (v) pro rata
59 rebate payments to certain public institutions of higher education pursuant to § 2.2-5005, (vi) the
60 unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, and
61 (vii) interest payments on deposits of certain public institutions of higher education pursuant to
62 § 2.2-5005 are set aside. The Comptroller shall set aside amounts required for clauses (iv) (b), (v), and
63 (vii) beginning with the initial fiscal year as determined under § 2.2-5005 and for all fiscal years
64 thereafter.

65 ~~ED.~~ The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
66 appropriations from the general fund or recommended amendments to general fund appropriations in the
67 general appropriation act in effect at that time an amount for *the Virginia Transportation Infrastructure*
68 *Fund and nonrecurring expenditures and an amount for deposit into the Transportation Trust Fund* equal
69 to the amounts assigned by the Comptroller for such purposes pursuant to the provisions of ~~subsection~~
70 ~~subsections B and C. Such deposit to the Transportation Trust Fund shall not preclude the appropriation~~
71 ~~of additional amounts from the general fund for transportation purposes.~~

72 § 2.2-1514. (Contingent effective date - see Editor's notes) Assignment of general fund for
73 nonrecurring expenditures.

74 A. As used in this section:

75 "The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any
76 amendments to a general appropriation act pursuant to such section.

77 "Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as
78 defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land,
79 the acquisition of equipment, or other expenditures of a one-time nature as specified in the general
80 appropriation act. *"Nonrecurring expenditures" shall not include any expenditures relating to*
81 *transportation, including but not limited to transportation maintenance.*

82 B. *At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to*
83 *§ 2.2-813 an amount for deposit to the Virginia Transportation Infrastructure Fund pursuant to*
84 *§ 33.1-23.8, which shall be equal to two-thirds of any general fund revenue surplus in excess of the*
85 *official general fund revenue budget estimate as reported at the end of the year on the monthly general*
86 *fund statement of revenue collections issued by the Secretary of Finance. Such assignment shall be made*
87 *only after the full amount required for the Revenue Stabilization Fund deposit pursuant to § 2.2-1829 is*
88 *has been assigned.*

89 C. At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to
90 § 2.2-813 ~~an amount for nonrecurring expenditures, which shall equal~~ the remaining amount of the
91 general fund balance that is not otherwise restricted, committed, or assigned for other usage within the
92 general fund *for nonrecurring expenditures*. No such assignment shall be made unless the full amounts
93 required for other restrictions, commitments, or assignments including but not limited to (i) ~~the Revenue~~
94 ~~Stabilization Fund deposit pursuant to § 2.2-1829~~ *amounts assigned pursuant to the provisions of*
95 *subsection B*, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but
96 excluding any deposits provided under the Virginia Natural Resources Commitment Fund established
97 under § 10.1-2128.1, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv)
98 (a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations
99 of unexpended appropriations to certain public institutions of higher education pursuant to § 2.2-5005,
100 (v) pro rata rebate payments to certain public institutions of higher education pursuant to § 2.2-5005, (vi)
101 the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year,
102 and (vii) interest payments on deposits of certain public institutions of higher education pursuant to
103 § 2.2-5005 are set aside. The Comptroller shall set aside amounts required for clauses (iv) (b), (v), and
104 (vii) beginning with the initial fiscal year as determined under § 2.2-5005 and for all fiscal years
105 thereafter.

106 ~~ED.~~ The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
107 appropriations from the general fund or recommended amendments to general fund appropriations in the
108 general appropriation act in effect at that time an amount for *the Virginia Transportation Infrastructure*
109 *Fund and nonrecurring expenditures* equal to the amount assigned by the Comptroller for such purpose
110 pursuant to the provisions of ~~subsection~~ *subsections B of this section and C.*

111 § 33.1-23.05. Revenue-sharing funds for systems in certain counties, cities, and towns.

112 A. From revenues made available by the General Assembly ~~after January 1, 2008~~, and appropriated
113 for the improvement, construction, or reconstruction of the systems of state highways, the
114 Commonwealth Transportation Board ~~shall may~~ make an equivalent matching allocation to any county,
115 city, or town for designations by the governing body of ~~up to \$1 million in the county, city, or town~~
116 ~~general funds~~ for use by the county, city, or town to improve, construct, or reconstruct the highway
117 systems within such county, city, or town. After adopting a resolution supporting the action, the
118 governing body may request revenue-sharing funds to improve, construct, or reconstruct a highway
119 system located in another locality, between two or more localities, or to bring subdivision streets, used

as such prior to ~~July 1, 1992~~ *the date specified in § 33.1-72.1*, up to standards sufficient to qualify them for inclusion in the state primary and secondary system of highways. All requests for funding shall be accompanied by a prioritized listing of specified projects.

B. The allocation of funds to localities shall be only for the purposes set forth in subsection A. In allocating funds under this section, the Board shall give priority (i) first when such project is administered by the county, city, or town, either directly or by contract with another entity, (ii) second, when such county, city, or town commits more local funding than the amount of revenue-sharing funding requested, and (iii) third when the allocation will accelerate an existing project in the Six-Year Improvement Program or the locality's capital plans. Any funds remaining may be applied to any other project that requires an equivalent matching allocation from the governing body.

C. The Department will contract with the county, city, or town for the implementation of the project or projects. Such contract may cover either a single project or may provide for the locality's implementation of several projects during the fiscal year. The county, city, or town will undertake implementation of the particular project or projects by obtaining the necessary permits from the Department of Transportation in order to ensure that the improvement is consistent with the Department's standards for such improvements. At the request of the locality, the Department may provide the locality with engineering, right-of-way acquisition, and/or construction services for a project with its own forces. The locality shall provide payment to the Department for any such services. If administered by the Department, such contract shall also require that the governing body pay to the Department within 30 days the local revenue-sharing funds ~~from its general fund~~ upon written notice by the Department of its intent to proceed. Any project having funds allocated under this program shall be initiated in such a fashion where at least a portion of such funds have been expended within two subsequent fiscal years of allocation. Any revenue-sharing funds for projects not initiated after two subsequent fiscal years of allocation may be reallocated at the discretion of the Commonwealth Transportation Board.

DC. Total Commonwealth funds allocated by the Board under this section shall ~~not exceed \$50 million in any one fiscal year and no less than \$15 million each fiscal year~~, subject to appropriation for such purpose ~~be as determined by the Board~~.

E. No more than three months prior to the end of any fiscal year in which less than the full program allocation has been allocated by the Board to specific governing bodies, those localities requesting the maximum allocation under subsection A may be allowed an additional allocation.

D. *The funds allocated by the Commonwealth Transportation Board under this section shall be distributed and administered in accordance with the revenue-sharing program guidelines established by the Board.*

§ 33.1-23.1. Allocation of funds among highway systems.

A. The Commonwealth Transportation Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the interstate system of highways, the primary system of state highways, the secondary system of state highways and for city and town street maintenance payments made pursuant to § 33.1-41.1 and payments made to counties which have withdrawn or elect to withdraw from the secondary system of state highways pursuant to § 33.1-23.5:1 *and for revenue sharing pursuant to § 33.1-23.05*.

B. After funds are set aside for administrative and general expenses and pursuant to other provisions in this title which provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection A ~~of this section~~, the Commonwealth Transportation Board may allocate each year up to ~~40%~~ *10 percent* of the funds remaining for highway purposes for the undertaking and financing of rail projects that, in the Board's determination, will result in mitigation of highway congestion. After the forgoing allocations have been made, the Board shall allocate the remaining funds available for highway purposes, exclusive of federal funds for the interstate system, among the several highway systems for construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the primary system of state highways, including the arterial network, and in addition, an amount shall be allocated to the primary system as interstate matching funds as provided in subsection B of § 33.1-23.2.

2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to urban highways for state aid pursuant to § 33.1-44.

3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the secondary system of state highways.

C. In addition, the Commonwealth Transportation Board, from funds appropriated for such purpose in the general appropriation act, shall allocate additional funds to the Cities of Newport News, Norfolk, and Portsmouth and the County of Warren in such manner and apportion such funds among such

localities as the Board may determine, unless otherwise provided in the general appropriation act. The localities shall use such funds to address highway maintenance and repair needs created by or associated with port operations in those localities.

D. Notwithstanding the foregoing provisions of this section, the General Assembly may, through the general appropriations act, permit the Governor to increase the amounts to be allocated to highway maintenance, highway construction, either or both.

§ 33.1-23.4:01. Allocation of proceeds of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds.

The Commonwealth Transportation Board shall allocate, use, and distribute the proceeds of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision 4f of § 33.1-269, as follows:

1. A minimum of ~~20%~~ *20 percent* of the bond proceeds shall be used for transit capital consistent with subdivision A 4 g of § 58.1-638.

2. A minimum of ~~4.3%~~ *4.3 percent* of the bond proceeds shall be used for rail capital consistent with the provisions of §§ 33.1-221.1:1.1 and 33.1-221.1:1.2.

3. The remaining amount of bond proceeds shall be used for paying the costs incurred or to be incurred for construction of transportation projects with such bond proceeds used or allocated as follows: ~~(a)~~ *(i)* first, to match federal highway funds projected to be made available and allocated to highway and public transportation capital projects *to the extent determined* by the Commonwealth Transportation Board, for purposes of allowing additional state construction funds to be allocated to the primary, urban, and secondary systems of highways pursuant to subdivisions B 1, B 2, and B 3 of § 33.1-23.1; ~~(b)~~ *(ii)* next, to provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds pursuant to § 33.1-23.05 *to the extent determined by the Commonwealth Transportation Board*; and ~~(c)~~ *(iii)* third, to pay or fund the costs of statewide or regional projects throughout the Commonwealth. Costs incurred or to be incurred for construction or funding of these transportation projects shall include, but are not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and related improvements, and any financing costs or other financing expenses relating to such bonds. Such costs may include the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the relevant project.

4. The total amount of bonds authorized shall be used for purposes of applying the percentages in subdivisions 1 through 3.

Article 1.2.

Virginia Transportation Infrastructure Bank.

§ 33.1-23.6. Definitions.

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

"Bank" means the Virginia Transportation Infrastructure Bank created in § 33.1-23.8.

"Board of Directors" means the Board of Directors of the Virginia Transportation Infrastructure Bank.

"Cost," as applied to any project financed under the provisions of this article, means the total of all costs including, but not limited to, the costs of planning, design, right-of-way acquisition, engineering, and construction incurred by an eligible borrower or other project sponsor as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. The term also includes capitalized interest, reasonably required reserve funds, and financing, credit enhancement, and issuance costs.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other forms of collateral or security.

"Creditworthiness" means attributes such as revenue stability, debt service coverage, reserves, and other factors commonly considered in assessing the strength of the security for indebtedness.

"Dedicated revenue source" means special assessments, tax increment financing, any portion of a tax or fee, tolls, 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 a project obligation.

"Eligible borrower" means any (i) private sector entity; (ii) locality; (iii) local, regional, state, or federal entity or transportation authority, planning district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth; (iv) any metropolitan planning organization; (v) any instrumentality, corporation, or entity established by any of the foregoing or any project sponsor; or (vi) any combination of two or more of the foregoing.

"Fund" means the Virginia Transportation Infrastructure Fund created in § 33.1-23.8.

"Loan" means direct financial assistance from the Fund that is required to be repaid over a period of time or on a future date or dates and that is provided to an eligible borrower to finance all or part of the costs of a project incurred by the eligible borrower or a project sponsor.

"Local government" means any county, city, town, municipal corporation, authority, planning district,

commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Locality" means any county, city, or town in the Commonwealth.

"Private sector entity" means any nongovernmental entity that has executed an interim or comprehensive agreement to develop and construct a transportation infrastructure project pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.).

"Project" means (i) the construction, reconstruction, rehabilitation, or replacement of any interstate, state highway, toll road, tunnel, local road, bridge, or runway or (ii) the construction, reconstruction, rehabilitation, replacement, or acquisition of any transit and passenger or freight rail facility or vehicle.

"Project obligation" means any bonds, notes, debentures, interim certificates, grant or revenue anticipation notes, leases or lease-purchase or installment sales transactions, or credit enhancements issued, incurred, or entered into by an eligible borrower or project sponsor to evidence or guarantee a loan, or any other evidences of an obligation of an eligible borrower or a project sponsor for the payment or guarantee of a loan.

"Project sponsor" means any eligible borrower and any other locality, local government, transportation authority or commission, railroad, transit company, or private sector entity that is involved in the construction, maintenance, and financing of a project with respect to which the Bank is making a loan.

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

§ 33.1-23.7. Creation of the Virginia Transportation Infrastructure Bank and Fund.

A. The Virginia Transportation Infrastructure Bank is hereby created with the duties and powers set forth in this article. The Bank's exercise of the duties and powers conferred by this article shall be deemed to be the performance of an essential governmental function of the Commonwealth.

B. There is hereby created in the state treasury a special nonreverting, revolving loan fund known as the Virginia Transportation Infrastructure Fund. The Fund shall be established on the books of the Comptroller. The Fund initially shall be capitalized with the general fund revenue surplus from the fiscal year ending June 30, 2010 and savings identified during the most recent performance audit of the Department of Transportation. The Governor and the General Assembly may from time to time dedicate or appropriate additional funds at their discretion. Any and all future funds, as determined by the Governor and appropriated by the General Assembly to the Fund, shall be paid into the state treasury and credited to the Fund. Repayment of loans and interest earned on the moneys in the Fund shall be credited to the Fund. 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. The Fund shall be administered by the Board of Directors. Moneys in the Fund shall be used solely for the purposes enumerated in subsections C and D.

C. 1. Moneys deposited in the Fund shall be used for the purpose of making loans and grants to finance transportation projects.

2. The project obligations evidencing each loan shall be payable, in whole or in part, from dedicated revenue sources pledged for such purpose.

3. The interest rate on the loan shall be determined by the Board of Directors pursuant to subsection F of § 33.1-23.8.

4. The Board of Directors, pursuant to subsection G of § 33.1-23.9, shall establish a repayment schedule for each project obligation, with repayment beginning no later than five years following substantial project completion and a final maturity date of not more than 35 years following substantial project completion.

5. The pledge of dedicated revenue sources and other property securing any project obligation may be subordinate to the pledge securing any other senior debt obligations incurred to finance the project.

6. The Board of Directors may at any time following substantial project completion reduce, defer or cancel payments on a project obligation if the project is unable to generate sufficient revenues to pay the scheduled payments.

D. A portion not to exceed 20 percent of the revenues deposited in the Fund may be used for grants to localities to finance transportation projects.

E. The Bank is not authorized or empowered to be or to constitute a bank or trust company within the jurisdiction or under the control of the Commonwealth or an agency thereof or the Comptroller of Currency of the U.S. Treasury Department; or a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers law of the United States or of the Commonwealth.

§ 33.1-23.8. Board of Directors; membership; duties.

A. All powers, rights and duties conferred by this article or other provisions of law upon the Bank shall be exercised by a board of directors. The Secretary of Transportation shall serve as chairman of the Board of Directors. The Secretary of Finance shall serve as vice-chairman of the Board of

304 *Directors. The Director of the Department of Rail and Public Transportation and the Commissioner of*
305 *the Virginia Department of Transportation shall each appoint two members to serve on the Board of*
306 *Directors. The State Treasurer shall serve as an ex officio member, with voting privileges only in the*
307 *event of a tie vote. The Governor shall appoint two members to serve on the Board of Directors who*
308 *are representative of the private transportation or financial sectors. The members of the Board of*
309 *Directors appointed by the Governor shall serve terms of four years each, except that the original terms*
310 *of the two members appointed by the Governor shall end on June 30, 2012, and June 30, 2013,*
311 *respectively, as designated by the Governor. Any appointment to fill a vacancy on the Board of*
312 *Directors shall be made for the unexpired term of the member whose death, resignation, or removal*
313 *created the vacancy. All members of the Board of Directors shall be residents of the Commonwealth.*
314 *Members may be appointed to no more than two successive terms on the Board of Directors.*

315 *B. Meetings of the Board of Directors shall be held at the call of the chairman. Five members of the*
316 *Board of Directors shall constitute a quorum for the transaction of the business of the Fund. An act of*
317 *the majority of the members of the Board of Directors present at any regular or special meeting at*
318 *which a quorum is present shall be an act of the Board of Directors. No vacancy on the Board of*
319 *Directors shall impair the right of a majority of a quorum of the members of the Board of Directors to*
320 *exercise all the rights and perform all the duties of the Bank.*

321 *C. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth*
322 *shall be deemed to have forfeited or shall have forfeited his office or employment by reason of*
323 *membership on the Board of Directors or by providing service to the Bank or Fund.*

324 *D. The Board of Directors shall set all policies and regulations for the administration of the Fund.*

325 *E. The Board of Directors, by a majority vote, is empowered as the final authority for making and*
326 *approving all loans and grants from the Fund and the terms of and security for all project obligations*
327 *evidencing or guaranteeing such loans.*

328 *F. The Board of Directors shall determine the applicable interest rate, if any, for all loans from the*
329 *Fund. The interest rate shall be determined as a percentage of the market rate dependent upon*
330 *prevailing credit market conditions, and a project's creditworthiness.*

331 *G. The Board of Directors shall set a repayment schedule for all loans from the Fund and is vested*
332 *with the sole authority to reduce or cancel loan payments.*

333 *§ 33.1-23.9. Eligibility and project selection.*

334 *A. Any entity constituting an eligible borrower or a project sponsor is eligible to apply for a loan*
335 *from the Fund to finance a transportation project.*

336 *B. Counties, cities, and towns are eligible to apply for a grant from the Fund.*

337 *C. All applicants for a loan or grant must file an application with the Secretary of Transportation's*
338 *Office for review by the Board of Directors. The application must include all items determined by the*
339 *Board of Directors in the policies and regulations set forth to administer the Fund to be necessary and*
340 *appropriate to determine whether or not to approve a loan.*

341 *D. All applicants for a loan must demonstrate, among other things as determined by the Board, the*
342 *availability of dedicated revenue sources to retire the project obligation as well as creditworthiness.*

343 *E. All applicants for a grant must demonstrate, among other things as determined by the Board, that*
344 *such grant is the sole method available for funding a project.*

345 *F. The Board of Directors shall establish the specific criteria upon which a determination for*
346 *approval for a loan or grant shall be made. Generally, the project must be of local, regional, or*
347 *statewide significance, and it must meet the goal of generating economic benefits, improving air quality,*
348 *reducing congestion, or improving safety through enhancement of the state transportation network.*
349 *Other factors for a loan will include, but not be limited to, the creditworthiness of the project, the*
350 *suitability of loan repayments to be pledged to fund indebtedness, and whether or not the loan will*
351 *enable the project to be completed at an earlier date than otherwise feasible.*

352 *G. All projects for which a loan or grant is made must meet and remain in compliance with the*
353 *policies and regulations established by the Board of Directors.*

354 *§ 33.1-23.10. Powers of the Bank.*

355 *In addition to the powers granted elsewhere in this article, the Bank is granted all powers necessary*
356 *or appropriate to carry out and to effectuate its purposes, including the following:*

357 *1. To have perpetual succession as a public body corporate and as a political subdivision of the*
358 *Commonwealth;*

359 *2. To adopt, amend, and repeal bylaws, rules, and policies not inconsistent with this article for the*
360 *administration and regulation of its affairs and to carry into effect the powers and purposes of the Bank*
361 *and the conduct of its business;*

362 *3. To sue and be sued in its own name;*

363 *4. To have an official seal and alter it at will although the failure to affix this seal shall not affect*
364 *the validity of any instrument executed on behalf of the Bank;*

365 *5. To make and execute contracts and all other instruments and agreements necessary or convenient*

for the performance of its duties and the exercise of its powers and functions under this article;

6. To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its properties and assets;

7. To employ officers, employees, agents, advisers, and consultants, including without limitations attorneys, financial advisers, engineers, and other technical advisers and public accountants, and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;

8. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance, against any loss, cost, or expense in connection with its property, assets, or activities, including insurance or self-insurance against liability for its acts or the acts of its directors, employees or agents, and for the indemnification of the members of its Board of Directors and its employees and agents;

9. To receive and accept from any source aid, grants and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this article, subject to the conditions upon which the aid, grants, or contributions are made;

10. To enter into agreements with any department, agency, or instrumentality of the United States of America or the Commonwealth for the purpose of planning, regulating, and providing for the financing of any projects;

11. To enter into contracts or agreements for the servicing and processing of local obligations owned by the Bank;

12. To establish and revise, amend and repeal, and charge and collect fees and charges in connection with any activities or services of the Bank; and

13. To do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this chapter.

§ 33.1-23.11. Grants from the Commonwealth Transportation Board.

The Commonwealth Transportation Board may make grants of money or property to the Fund for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers, including deposits to the capital reserve funds. This section shall not be construed to limit any other power the Commonwealth Transportation Board may have to make grants to the Fund.

§ 33.1-23.12. Acquisition of project obligations.

A. The Bank shall have the power and authority, with any funds of the Bank available for such a purpose, to purchase or otherwise acquire, on terms that the Board of Directors determines, project obligations to evidence or guarantee loans made to finance or refinance the costs of any project. The Bank may also sell any project obligations so purchased and apply the proceeds of such a sale to make additional loans and acquire other project obligations for financing or refinancing the cost of any project or for any other corporate purpose of the Bank.

B. The Bank may require, as a condition of making a loan and the acquisition of any project obligations, that the eligible borrower or other project sponsor or sponsors covenant to perform any of the following:

1. Establish and collect tolls, rents, rates, fees, and other charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the project obligations; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Bank to offset the need, in whole or part, for future increases in tolls, rents, rates, fees, or charges;

2. Create and maintain a special fund or funds as security for or the source of the scheduled payments on the project obligations and any other amounts becoming due under any agreement entered into in connection with the project obligations, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the eligible borrower or other project sponsors, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

3. Create and maintain other special funds as required by the Bank; and

4. Perform other acts, including the conveyance or mortgaging of real and personal property together with all right, title, and interest therein to the Bank, or take other actions as may be deemed necessary or desirable by the Bank to secure payment of the project obligations and to provide for the remedies of the Bank or other holder of the project obligations in the event of any default by the eligible borrower or other project sponsor or sponsors in the payment, including, without limitation, any of the following:

a. The procurement of credit enhancements or liquidity arrangements for project obligations from any source, public or private, and the payment therefor of premiums, fees, or other charges.

b. The combination of one or more projects, or the combination of one or more projects with one or

427 more other undertakings, facilities, or systems, for the purpose of operations and financing, and the
 428 pledging of the revenues from such combined projects, undertakings, facilities, and systems to secure
 429 project obligations issued in connection with such combination or any part or parts thereof.

430 c. The payment of the allocable shares of the eligible borrowers or other project sponsors, as
 431 determined by the Bank on any reasonable basis, of rate stabilization funds established or required by
 432 the Bank in connection with the issuance of bonds by the Bank to acquire or provide credit
 433 enhancement for project obligations of two or more eligible borrowers or other project sponsors.

434 C. All eligible borrowers and other project sponsors, including any localities, providing project
 435 obligations to the Bank are authorized to perform any acts, take any action, adopt any proceedings, and
 436 make and carry out any contracts with the Bank that are contemplated by this article. Such contracts
 437 need not be identical among all participants in financings of the Bank, but may be structured as
 438 determined by the Bank according to the needs of the contracting eligible borrowers and other project
 439 sponsors and the Bank.

440 In addition, subject to the approval of the Board of Directors, any project sponsor is authorized to
 441 establish and contract with a special purpose or limited instrumentality, corporation, or other entity for
 442 the purpose of having such entity serve as the eligible borrower with respect to a particular project.

443 § 33.1-23.13. Virginia Transportation Infrastructure Bank reporting requirement.

444 A. No grant or loan from the Fund shall be awarded by the Bank until the Secretary of
 445 Transportation has provided copies of the criteria, guidelines, and regulations to the Chairmen of the
 446 House Committees on Appropriations, Finance, and Transportation and the Senate Committees on
 447 Finance and Transportation.

448 B. Within 30 days after each six-month period ending June 30 and December 31, the Secretary of
 449 Transportation shall provide a report to the Chairmen of the House Committees on Appropriations,
 450 Finance, and Transportation and the Senate Committees on Finance and Transportation, which shall
 451 include, but not be limited to, the amounts of loans and grants awarded from the Fund and the projects
 452 for which the loans and grants were made.

453 Article 1.3.

454 Commonwealth of Virginia Transportation Grant Anticipation Revenue Notes.

455 § 33.1-23.14. Short title; definitions.

456 A. This article shall be known and may be cited as the "Commonwealth of Virginia Transportation
 457 Grant Anticipation Revenue Notes Act of 2010."

458 B. As used in this article, unless the context requires a different meaning:

459 "Federal Highway Reimbursement Anticipation Notes" or "FRANs" mean the obligations issued by
 460 the Board pursuant to the FRANs Act.

461 "Federal Highway Reimbursement Anticipation Notes Act" or "FRANs Act" means subdivision 4d of
 462 § 33.1-269 and Chapters 1019 and 1044 of the Acts of Assembly of 2000, as amended.

463 "Federal highway reimbursements" means all federal-aid highway construction reimbursements and
 464 any other federal highway assistance received from time to time by the Commonwealth under or in
 465 accordance with Title 23 of the United States Code or any successor program established under federal
 466 law from the Federal Highway Administration and any successor or additional federal agencies.

467 "Notes" means those notes authorized and issued pursuant to § 33.1-23.16.

468 "Project-specific reimbursements" means the federal highway reimbursements received by the
 469 Commonwealth from time to time only with respect to the project or projects to be financed by the
 470 Notes or any series thereof.

471 "Series" means any grouping of Notes issued at one time or from time to time as designated as such
 472 by the Board as necessary or desirable for administrative convenience, satisfaction of federal tax or
 473 securities law requirements, or any similar purpose.

474 § 33.1-23.15. Authorization of Notes.

475 The Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the
 476 provisions of the State Revenue Bond Act (§ 33.1-267 et seq.), in one or more series from time to time
 477 revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Transportation
 478 Grant Anticipation Revenue Notes, Series .," provided that the aggregate principal amount outstanding
 479 at any time shall not exceed \$1.2 billion (exclusive of any obligations that may be issued to refund such
 480 notes in accordance with § 33.1-293) plus an amount for financing expenses (including, without
 481 limitation, any original issue discount). Notwithstanding the foregoing, at no time shall the sum of the
 482 outstanding aggregate principal amount of the Notes and the outstanding aggregate principal amount of
 483 FRANs exceed \$1.2 billion (exclusive of any obligations that may be issued to refund such notes in
 484 accordance with § 33.1-293) plus an amount for financing expenses (including, without limitation, any
 485 original issue discount).

486 § 33.1-23.16. Use of proceeds of Notes.

487 A. The net proceeds of the Notes shall be used exclusively for the purpose of providing funds,
 488 together with any other available funds, for paying the costs incurred or to be incurred for construction

or funding of such projects to be designated by the Board.

B. The proceeds of Notes, including any premium received on the sale thereof, shall be made available by the Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying for costs of the projects. The proceeds of Notes may be used together with any federal, local, or private funds that may be made available for such purpose. The proceeds of Notes, together with any investment earnings thereon, may at the discretion of the Board secure the payment of principal or purchase price of and redemption premium, if any, and interest on Notes.

§ 33.1-23.17. Details of Notes.

A. The terms and structure of each issue of Notes shall be determined by the Board, subject to approval by the Treasury Board if required in accordance with § 2.2-2416. The Notes of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to amount outstanding at any one time set forth in § 33.1-23.16), shall bear interest at such rate or rates that may be fixed, adjustable, variable, or a combination thereof, and may be determined by a formula or other method, shall mature at such time or times not exceeding 20 years after the issuance thereof, and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Board. The Board shall determine the form and series designations of Notes, whether Notes are certificated or uncertificated, and fix the authorized denomination or denominations of Notes and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, Notes, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, Notes shall be made payable in lawful money of the United States of America. Each issue of Notes may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Notes. All Notes shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

B. The Board may sell Notes from time to time at public or private sale, by competitive bidding, negotiated sale, or private placement, for such price or prices as it may determine to be in the best interests of the Commonwealth.

§ 33.1-23.18. Form and manner of execution; signature of person ceasing to be officer.

The Notes shall be signed on behalf of the Board by the Chairman or Vice-Chairman of the Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Board, which shall be attested by the manual or facsimile signature of the secretary or assistant secretary of the Board. In the event that Notes shall bear the facsimile signature of the Chairman or Vice-Chairman of the Board, such Notes shall be signed by such administrative assistant as the Chairman of the Board shall determine or by any registrar/paying agent that may be designated by the Board. In case any officer whose signature or a facsimile of whose signature appears on any Notes shall cease to be such officer before the delivery of such Notes, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

§ 33.1-23.19. Authority to obtain direct GARVEE approval.

The Board is authorized to seek any necessary approvals for the issuance of Notes as "direct grant anticipation revenue vehicles" or "direct GARVEES" from the Federal Highway Administration and any successor or additional federal agencies.

§ 33.1-23.20. Expenses.

All expenses incurred under this article or in connection with issuance of Notes shall be paid from the proceeds of such Notes or from any available funds as the Board shall determine.

§ 33.1-23.21. Deposit of proceeds.

The proceeds of each series of Notes shall be placed by the State Treasurer in a special fund in the state treasury or may be placed with a trustee in accordance with § 33.1-283 and shall be disbursed only for the purpose for which such series shall be issued.

§ 33.1-23.22. Other funds.

The Board is hereby authorized to receive any other funds that may be made available to pay costs of the projects and, subject to appropriation by the General Assembly or allocation or designation by the Board, as the case may be, to make available the same to the payment of the principal or purchase price of, and redemption premium, if any, and interest on Notes authorized hereby and to enter into the appropriate agreements to allow for those funds to be paid into the state treasury, or to a trustee in accordance with § 33.1-283 to pay a part of the costs of the projects or to pay principal or purchase price of, and redemption premium, if any, and interest on Notes.

§ 33.1-23.23. Application of project-specific reimbursements.

A. In accordance with the FRANs Act, Article X, Section 7 of the Constitution of Virginia, and

§ 2.1-1802, all federal highway reimbursements are paid into the state treasury. In connection with each series of Notes issued pursuant to this article, the Board shall establish a fund in accordance with § 33.1-286 either in the state treasury or with a trustee in accordance with § 33.1-283, which secures and is used for the payment of such series of Notes to the credit of which there shall be deposited such amounts, appropriated therefor by the General Assembly, as are required to pay principal or purchase price of, and redemption premium, if any, and interest on Notes, as and when due and payable, (i) first from the project-specific reimbursements and (ii) then from such other legally available funds, if any, that are designated by the General Assembly or the Board for such purpose.

B. The Board is authorized to provide that the pledge of the project-specific reimbursements and any other security or source of payment for all or any series of the Notes will be subordinate to any prior pledge thereof to the FRANs and that the obligation to make transfers of project-specific reimbursements or other amounts into any fund established under subsection A will be subordinate to the obligation to make any required payments or deposits on or with respect to the FRANs.

§ 33.1-23.24. Investment of proceeds and other amounts.

Notes proceeds and moneys in any reserve funds and sinking funds in respect of Notes shall be invested by the State Treasurer in accordance with the provisions of general law relating to the investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in accordance with § 33.1-283.

§ 33.1-23.25. Exemption from taxation.

The interest income from and any profit made on the sale of the Notes issued under the provisions of this article shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof.

§ 33.1-23.26. Notes as eligible securities.

All Notes issued under the provisions of this article are hereby made securities in which all persons and entities listed in § 33.1-280 may properly and legally invest funds under their control.

§ 33.1-221.1:1.3. Intercity Passenger Rail Operating and Capital Fund.

A. The General Assembly declares it to be in the public interest that developing and continuing intercity passenger rail operations and the development of rail infrastructure, rolling stock, and support facilities to support intercity passenger rail service are important elements of a balanced transportation system in the Commonwealth, and further declares it to be in the public interest that the retention, maintenance, improvement, and development of intercity passenger rail-related infrastructure improvements and operations are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Intercity Passenger Rail Operating and Capital Fund, which shall be considered a special fund within the Transportation Trust Fund, hereafter referred to as "the Intercity Passenger Rail Operating and Capital Fund." The Intercity Passenger Rail Operating and Capital Fund shall be established on the books of the Comptroller and shall consist of funds as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Intercity Passenger Rail Operating and Capital Fund. Interest earned on moneys in the Intercity Passenger Rail Operating and Capital Fund shall remain in the Intercity Passenger Rail Operating and Capital Fund and be credited to it. Any moneys remaining in the Intercity Passenger Rail Operating and Capital Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Intercity Passenger Rail Operating and Capital Fund. Moneys in the Intercity Passenger Rail Operating and Capital Fund shall be used solely as provided in this section. Expenditures and disbursements from the Intercity Passenger Rail Operating and Capital Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and Public Transportation or his designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Intercity Passenger Rail Operating and Capital Fund to support the cost of operating intercity passenger rail service; acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support intercity passenger rail projects.

D. Capital projects including tracks and facilities constructed and property, equipment, and rolling stock purchased with funds under this section shall be the property of the Commonwealth for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, and shall be made available for use by all intercity passenger rail operations and common carriers

using the railway system to which they connect under the trackage rights or operating agreements between the parties. Projects undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or the Commonwealth as a whole. Such projects undertaken pursuant to this section shall not require a matching contribution; however, projects proposed with matching funds may receive more favorable consideration. Matching funds may be provided from any source except commonwealth transportation funds.

§ 33.1-268. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(1) The word "Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission or officer succeeding to the principal functions thereof or upon whom the powers given by this article to the Board shall be given by law.

(2) The word "project" or "projects" means any one or more of the following:

(a) York River Bridges, extending from a point within the Town of Yorktown in York County, or within York County across the York River to Gloucester Point or some point in Gloucester County.

(b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County, across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at some other feasible point in the general vicinity of the two respective points.

(c), (d) [Reserved.]

(e) James River Bridge, from a point at or near Jamestown, in James City County, across the James River to a point in Surry County.

(f), (g) [Reserved.]

(h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

(i) [Reserved.]

(j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

(k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge and Primary Route 60.

(l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property, rights, easements and franchises relating to any of the foregoing projects and deemed necessary or convenient for the operation thereof and to include approaches thereto.

(m) The limited access highway between the Patrick Henry Airport area and the Newport News downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

(n) Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls Church Metrorail station at Interstate Route 66 and a western terminus of Virginia Route 772 in Loudoun County, including without limitation the Dulles Toll Road, the Dulles Access Road, outer roadways adjacent or parallel thereto, mass transit, including rail, bus rapid transit, and capacity enhancing treatments such as High-Occupancy Vehicle lanes, High-Occupancy Toll (HOT) lanes, interchange improvements, commuter parking lots, and other transportation management strategies.

(o), (p) [Repealed.]

(q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary highway transportation improvement district or transportation service district which the Board has agreed to finance under a contract with any such district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation made by the General Assembly for that purpose and payable first from revenues received under such contract or other local funding source, second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project is located or to the county or counties in which the project is located and third, to the extent required from other legally available revenues of the Trust Fund and from any other available source of funds.

(r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

(s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

(t) Any program for highways or mass transit or transportation facilities, endorsed by the local jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a

673 "Transportation Improvement Program."

674 (u) Any project designated from time to time by the General Assembly financed in whole or part
675 through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

676 (v) Any project authorized by the General Assembly financed in whole or in part by funds from the
677 Priority Transportation Fund established pursuant to § 33.1-23.03:8 or from the proceeds of bonds whose
678 debt service is paid in whole or in part by funds from such Fund.

679 (w) *Any project identified by the Commonwealth Transportation Board to be financed in whole or in*
680 *part through the issuance of Commonwealth of Virginia Transportation Grant Anticipation Revenue*
681 *Notes.*

682 (3) The word "undertaking" means all of the projects authorized to be acquired or constructed under
683 this article.

684 (4) The word "improvements" means such repairs, replacements, additions and betterments of and to
685 a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and
686 efficient condition for the use of the public, if such repairs, replacements, additions and betterments are
687 ordered prior to the sale of any bonds for the acquisition of such project.

688 (5) The term "cost of project" as applied to a project to be acquired by purchase or by
689 condemnation, includes the purchase price or the amount of the award, cost of improvements, financing
690 charges, interest during any period of disuse before completion of improvements, cost of traffic
691 estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and
692 of revenues, other expenses necessary or incident to determining the feasibility or practicability of the
693 enterprises, administrative expenses and such other expenses as may be necessary or incident to the
694 financing herein authorized and the acquisition of the project and the placing of the project in operation.

695 (6) The term "cost of project" as applied to a project to be constructed, embraces the cost of
696 construction, the cost of all lands, properties, rights, easements and franchises acquired which are
697 deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry
698 which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all
699 machinery and equipment, financing charges, interest prior to and during construction and for one year
700 after completion of construction, cost of traffic estimates and of engineering data, engineering and legal
701 expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses
702 necessary or incident to determining the feasibility or practicability of the enterprise, administrative
703 expense and such other expenses as may be necessary or incident to the financing herein authorized, the
704 construction of the project, the placing of the project in operation and the condemnation of property
705 necessary for such construction and operation.

706 (7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or
707 associations having any title or interest in any property rights, easements or franchises authorized to be
708 acquired by this article.

709 (8) [Repealed.]

710 (9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by
711 the Board pursuant to this article, including, without limitation, legally available Transportation Trust
712 Fund revenues and any federal highway reimbursements and any other federal highway assistance
713 received from time to time by the Commonwealth.

714 (10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through
715 the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

716 § 33.1-269. General powers of Board.

717 The Commonwealth Transportation Board may, subject to the provisions of this article:

718 1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or
719 more of the projects mentioned and included in the undertaking defined in this article;

720 2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of
721 Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to
722 pay the cost of such projects;

723 3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the
724 Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract
725 Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between
726 the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable
727 first from revenues received pursuant to contracts with a primary highway transportation improvement
728 district or transportation service district or other local revenue sources for which specific funding of any
729 such bonds may be authorized by law; second, to the extent required, from funds appropriated and
730 allocated, pursuant to the highway allocation formula as provided by law, to the highway construction
731 district in which the project or projects to be financed are located or to the county or counties in which
732 the project or projects to be financed are located; and third, to the extent required, from other legally
733 available revenues of the Trust Fund and from any other available source of funds;

734 4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of

Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly for such purpose;

4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation by the General Assembly, solely from revenues with respect to or generated by the project or projects being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in accordance with the applicable federal credit assistance authorized with respect to such project or projects by the United States Department of Transportation;

4f. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

4g. *Issue grant anticipation notes of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Transportation Grant Anticipation Revenue Notes" secured, subject to their appropriation by the General Assembly, (i) first by the reimbursements and assistance received by the Commonwealth from the Federal Highway Administration and any successor or additional federal agencies only with respect to the project or projects for which the notes are issued and (ii) then by such other legally available funds, if any, which are designated by the General Assembly or the Board for such purpose;*

5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such projects;

6. Construct grade separations at intersections of any projects with public highways, streets or other

public ways or places and change and adjust the lines and grades thereof so as to accommodate the same to the design of such grade separations, the cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be ascertained and paid by the Board as a part of the cost of the project;

7. Vacate or change the location of any portion of any public highway, street or other public way or place and reconstruct the same at such new location as the Board deems most favorable for the project and of substantially the same type and in as good condition as the original highway, streets, way or place, the cost of such reconstruction and any damage incurred in vacating or changing the location thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway, street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads and any damages awarded on account thereof may be paid by the Board as a part of the cost of the project;

8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county, or other political subdivision, public utility or public service corporation owning or operating the same in, on, along, over or under the project. Whenever the Board determines that it is necessary that any such public utility facilities should be relocated or removed, the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation shall relocate or remove the same in accordance with the order of the Board. The cost and expense of such relocation or removal, including the cost of installing such public utility facilities in a new location or locations, and the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal shall be ascertained by the Board.

On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation. On all other projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, or political subdivision. The Commonwealth or such municipality, county, political subdivision, public utility or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances, in the new location or locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location or locations;

9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article;

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia; and

11. Enter into any agreements or take such other actions as the Board shall determine in connection with applying for or obtaining any federal credit assistance, including without limitation loan guarantees and lines of credit, pursuant to authorization from the United States Department of Transportation with respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program.

§ 33.1-276. Revenue bonds.

The Board may provide by resolution, at one time or from time to time, for the issuance of revenue bonds, notes, or other revenue obligations of the Commonwealth for the purpose of paying all or any part of the cost as hereinabove defined of any one or more projects as hereinabove defined. The principal or purchase price of, and redemption premium, if any, and interest on such obligations shall be payable solely from the special funds herein provided for such payment. "Special funds" for the purposes of this section shall include any such funds established for Commonwealth of Virginia Toll Revenue Bonds, Commonwealth of Virginia Transportation Contract Revenue Bonds, Commonwealth of Virginia Transportation Revenue Bonds, or Commonwealth of Virginia Federal Highway Reimbursement

Anticipation Notes, or *Commonwealth of Virginia Transportation Grant Anticipation Revenue Notes*.
 § 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, from bond proceeds or earnings thereon and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which such project or projects are located, (iii) from bond proceeds or earnings thereon, (iv) to the extent required, from other legally available revenues of the Trust Fund, and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which shall have been appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly.

E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in

919 which the project or projects to be financed are located or to the city or county in which the project or
920 projects to be financed are located, (iv) to the extent required, legally available revenues from the
921 Transportation Trust Fund, and (v) such other funds which may be appropriated by the General
922 Assembly.

923 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this
924 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full
925 faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to
926 appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other
927 federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion
928 of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund,
929 and (iii) then, from such other funds, if any, which are designated by the General Assembly for such
930 purpose.

931 G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued under the
932 provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a
933 pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely,
934 subject to appropriation by the General Assembly, from revenues with respect to or generated by the
935 project or projects being financed thereby and any tolls or other revenues pledged by the Board as
936 security therefor and in accordance with the applicable federal credit assistance authorized with respect
937 to such project or projects by the United States Department of Transportation.

938 H. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds issued under the
939 provisions of this article for projects as provided in subdivision 2 * (v) of § 33.1-268 shall not be
940 deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of
941 the Commonwealth, but such bonds shall be payable solely, subject to their appropriation by the General
942 Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to
943 § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the Transportation Trust
944 Fund; and (iii) to the extent required, from any other legally available funds.

945 *1. Commonwealth of Virginia Transportation Grant Anticipation Revenue Notes issued under the*
946 *provisions of Article 1.3 (§ 33.1-23.15 et seq.) of Chapter 1 and this article shall not be deemed to*
947 *constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the*
948 *Commonwealth, but such notes shall be payable solely, subject to their appropriation by the General*
949 *Assembly, (i) first from the reimbursements and assistance received by the Commonwealth from the*
950 *Federal Highway Administration and any successor or additional federal agencies only with respect to*
951 *the project or projects for which the notes are issued and (ii) then, from such other legally available*
952 *funds, if any, which are designated by the General Assembly or the Board for such purpose.*

953 § 33.1-280. Sale of bonds; bonds as legal investments.

954 The Board may sell such bonds in such manner and for such price as it may determine to be for the
955 best interests of the Commonwealth, but no such sale shall be made at a price so low as to require the
956 payment of interest on the money received therefor at more than the maximum per centum per annum
957 approved by the Commonwealth Treasury Board with respect to such obligations in accordance with
958 § 2.2-2416 of the Code of Virginia, as amended, computed with relation to the absolute maturity of the
959 bonds in accordance with standard tables of bond values, excluding, however, from such computations
960 the amount of any premium to be paid on redemption for any bonds prior to maturity.

961 All bonds heretofore or hereafter issued pursuant to the authority of this article are hereby made
962 securities in which all public officers and bodies of this Commonwealth and all political subdivisions
963 thereof, all insurance companies and associations, all national banks and trust companies, and savings
964 institutions, including savings and loan associations, in the Commonwealth, and all executors,
965 administrators, trustees, and other fiduciaries, both individual or corporate, may properly and legally
966 invest funds within their control.

967 **2. That § 2 of the second enactment of Chapter 896 of the Acts of Assembly of 2007 is amended**
968 **and reenacted as follows:**

969 § 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of
970 the Governor, to issue, pursuant to the provisions of the State Revenue Bond Act (§ 33.1-267 et seq.
971 of the Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be
972 designated "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds, Series" at one
973 or more times in an aggregate principal amount not to exceed \$3 billion, after all costs; provided that
974 the aggregate principal amount issued in any one fiscal year shall not exceed \$300 \$600 million,
975 excluding any refunding bonds. If, the aggregate principal amount issued in any fiscal year is less than
976 \$300 \$600 million, then the amount by which such issuance is less than \$300 \$600 million may be
977 issued in any subsequent fiscal year in addition to the \$300 \$600 million authorized in the subsequent
978 fiscal year. The issuance of any bonds under this Act is subject to the provisions of subsection C of
979 § 33.1-23.03:8 of the Code of Virginia.