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HOUSE BILL NO. 1980

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend the Code of Virginia by adding in Title 33.1 a chapter numbered 19, consisting of sections numbered 33.1-466 through 33.1-474, relating to creating the Dulles Greenway Authority and providing for the Authority to, among other things, operate and maintain the Dulles Greenway.*

Patron—May

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 33.1 a chapter numbered 19, consisting of sections numbered 33.1-466 through 33.1-474, as follows:

CHAPTER 19.**DULLES GREENWAY AUTHORITY ACT.****§ 33.1-466. Definitions.**

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

"Authority" means the Dulles Greenway Authority created by this chapter, or if the Authority shall be abolished, the board, body, commission, or agency succeeding to the principal functions thereof or on whom the powers given by this chapter to the Authority shall be conferred by law.

"Authority facility" means the Dulles Greenway, any interest in real estate acquired by the Authority, any parking facility operated by the Authority, or any other property under the control of the Authority.

"Board" means the board of directors of the Dulles Greenway Authority.

"CTB" means the Commonwealth Transportation Board.

"Department" means the Virginia Department of Transportation.

"Dulles Greenway" means that toll road, and any appurtenances thereto, owned by the Commonwealth and extending approximately 14 miles from Washington Dulles International Airport to the Town of Leesburg and connecting the same. The "Dulles Greenway" shall also include any parking facility owned by the Commonwealth.

"Parking facility" means any commuter vehicle parking facility used primarily by Dulles Greenway commuters or Dulles Toll Road commuters, or any buildings, structures, parking areas, appurtenances, or other property needed to operate such facility with such parking facility or buildings, structures, parking areas, appurtenances, or other property needed to operate the facility located within one mile of any part of the Dulles Greenway.

§ 33.1-467. Dulles Greenway Authority created.

A. There is hereby created a political subdivision and public body corporate and politic of the Commonwealth to be known as the "Dulles Greenway Authority" to be governed by a board of directors. The Board shall consist of 15 voting members as follows: one current member of the local governing body of each of the Counties of Arlington, Fairfax, Loudoun, and Prince William; the Cities of Fairfax, Falls Church, Manassas, and Manassas Park; and the Town of Leesburg, to be appointed by the Governor; four nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; and two nonlegislative citizen members to be appointed by the Senate Committee on Rules. Nonlegislative citizen members appointed by the Speaker and the Senate Committee on Rules shall each reside in the County of Arlington, Fairfax, Loudoun, or Prince William or the City of Alexandria, Fairfax, Falls Church, Manassas, or Manassas Park. Of the initial appointments by the Governor, two shall be appointed for a term of one year, three shall be appointed for a term of two years, two shall be appointed for a term of three years, and two shall be appointed for a term of four years. Of the initial appointments by the Speaker, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years. Of the initial appointments by the Senate Committee on Rules, one shall be appointed for a term of three years and one shall be appointed for a term of four years. Thereafter, appointments by the Governor, the Speaker, and the Senate Committee on Rules shall be for terms of four years. Vacancies in the membership of the Board shall be filled by the appointing authority for the unexpired term. No person shall be eligible to serve more than two successive terms of four years. A person appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as a nonvoting ex officio member of the Board.

B. The Board shall enter upon the performance of its duties and shall initially and annually elect a chairman and vice-chairman from among the appointed members of the Board. The Board shall also

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59 annually elect a secretary or secretary-treasurer who need not be a member of the Board. The
60 chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the
61 absence of both the chairman and the vice-chairman, the Board shall elect a chairman pro tempore who
62 shall preside at such meetings.

63 A majority of the members appointed to the Board, which majority shall include at least a majority
64 of the members appointed by the Governor, shall constitute a quorum. Decisions of the Board shall
65 require a quorum and shall be in accordance with voting procedures established by the Board. In all
66 cases, decisions of the Board shall require the affirmative vote of a majority of the votes cast by the
67 Board members present and voting. For voting purposes, the members of the Board appointed by the
68 Governor from the local governing body of the County of Fairfax and the local governing body of the
69 County of Loudoun shall each be entitled to cast two votes on each question put before the Board.

70 The members of the Board shall be entitled to reimbursement for expenses incurred in attendance
71 upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses
72 shall be paid out of the moneys of the Authority in such manner as shall be prescribed by the Board.

73 C. The Board shall employ an Executive Director of the Authority, who shall serve at the pleasure of
74 the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers
75 and duties conferred upon him by the Board. The Executive Director's compensation from the Authority
76 shall be fixed by the Board and shall be payable from the moneys of the Authority. The Executive
77 Director shall employ such staff as deemed necessary and approved by the Board to carry out the
78 powers and duties of the Authority.

79 **§ 33.1-468. Powers of the Authority.**

80 The Authority shall have the following powers and duties:

81 1. To contract and be contracted with, to sue and be sued, and to adopt and use a seal and to alter
82 the same at its pleasure;

83 2. To acquire and hold interests in real or personal property necessary for its purposes, including
84 without limitation leasehold interests and licenses, with the title to such interest taken in the name of the
85 Authority;

86 3. To sell, lease, or otherwise dispose of any personal or real property or rights, easements, or
87 estates therein held by the Authority and deemed by the Authority not necessary for its purposes;

88 4. To operate, maintain, and administer the Dulles Greenway on behalf of the Commonwealth using
89 such moneys as provided to the Authority for the same;

90 5. To collect all tolls and other charges established by the CTB for the use of the Dulles Greenway
91 or the several parts or sections thereof and to deposit the same into the state treasury as soon as
92 practicable;

93 6. To purchase, and install as needed, electronic tolling equipment or other equipment determined
94 necessary by the Authority for operating, maintaining, or administering the Dulles Greenway and to
95 purchase such equipment using such moneys as provided to the Authority for the same;

96 7. To make and enter into all contracts and agreements necessary or incidental to the performance
97 of its duties and the execution of its powers under this chapter, including contracts or agreements with
98 the Metropolitan Washington Airports Authority for the coordinated operations, maintenance, or
99 administration of the Dulles Toll Road and the Dulles Greenway. Such coordinated operations may
100 involve the use of the same electronic tolling equipment or tolling technology;

101 8. To establish reasonable regulations for the installation, construction, maintenance, repair,
102 renewal, relocation, or removal of pipes, mains, sewers, conduits, cables, wires, towers, poles, or other
103 equipment or appliances, referred to herein as "public utility facilities" of the County of Fairfax, the
104 County of Loudoun, any public utility, any public service corporation, or any person, firm, or other
105 corporation rendering similar services in, on, along, over, or under the Dulles Greenway; and whenever
106 the Authority shall determine that it is necessary that any public utility facilities should be relocated or
107 removed, the Authority may relocate or remove the public utility facilities in accordance with the
108 regulations of the Authority, and the cost and expense of such relocation or removal, including the cost
109 of installing the public utility facilities in a new location or locations and the cost of any lands, rights,
110 or interest in lands, or any other rights acquired to accomplish such relocation or removal, shall be
111 paid by the Authority as a part of the costs of operating and maintaining the Dulles Greenway, and the
112 owner or operator of the public utility facilities may maintain and operate the public utility facilities
113 with the necessary appurtenances in the new location or locations for as long a period and upon the
114 same terms and conditions as it had the right to maintain and operate the public utility facilities in their
115 former location or locations;

116 9. To establish rules and regulations for the use of any of the Authority facilities as may be
117 necessary or expedient in the interest of public safety with respect to the use of Authority facilities and
118 property under the control of the Authority;

119 10. To employ and fix the compensation of consulting engineers, attorneys, accountants,
120 superintendents, managers, or such other employees or agents as may be necessary in the discretion of

the Authority to operate, maintain, and administer Authority facilities;

11. To receive and accept from any federal agency for or in aid of the operation, maintenance, or administration of any Authority facility, and to receive and accept from the Commonwealth, or from a county, city, or town or any other source, grants, contributions, or other aid for or in support of such operation, maintenance, or administration, either in money, property, labor, materials, or other things of value;

12. To promote the use of any Authority facility by appropriate means, including advertising or marketing, as the Authority determines appropriate and to treat the expenses thereof as operating expenses of the Authority; and

13. To do all other acts and things necessary to carry out the powers expressly granted in this chapter.

§ 33.1-469. Limitations on powers of the Authority.

The Authority shall not in any way dispose of or encumber any Authority facility owned by the Commonwealth. The Authority shall not establish or fix any toll, rent, fee, or other charge for the use or enjoyment of any Authority facility owned by the Commonwealth.

§ 33.1-470. Exemption from taxation.

All property of the Authority, real or personal, and all rights or interests therein and the income of the Authority shall at all times be free from taxation or assessment by the Commonwealth or by any municipality, county, or other political subdivision thereof.

§ 33.1-471. Powers of the CTB and the Department.

A. The CTB is authorized and empowered to transfer right-of-way from the control of the Department to the Authority for operation and maintenance of the Dulles Greenway.

B. The Department is authorized and empowered:

1. To enter into and perform contracts or agreements with the Authority to furnish it with surveys, plans, specifications or other technical services, or data, the cost of which shall be reimbursed by the Authority;

2. Subject to appropriation, to allocate to the Authority funds for operating (including the purchase of equipment), maintaining, and administering the Dulles Greenway and to pay to the Authority such funds as may be or become available to the Department for such purposes; and

3. To transfer right-of-way from the control of the Department to the Authority for operation and maintenance of the Dulles Greenway.

§ 33.1-472. Exemptions.

The Authority is hereby exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the Virginia Personnel Act (§ 2.2-2900 et seq.) in the exercise of any of its powers and duties, provided that the Board adopts procedures to ensure fairness and competitiveness in the procurement of goods and services and the employment of personnel. The Authority shall be exempt from the provisions of §§ 2.2-1124, 2.2-1131.1, 2.2-1136, 2.2-1149, 2.2-1153, 2.2-1154, and 2.2-1156. These exemptions shall remain in effect so long as the Board has adopted regulations consistent with the requirements of such sections and such regulations remain in effect. Regulations promulgated by the Authority shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

§ 33.1-473. Constitutional construction.

The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this chapter.

§ 33.1-474. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this chapter are hereby declared to be inapplicable to the provisions of this chapter and any Authority facility.

2. That the provisions of this act shall not become effective unless and until the Commonwealth Transportation Board acquires the Dulles Greenway as defined under § 33.1-466 of this act on or before July 1, 2015.