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## HOUSE BILL NO. 1253

Offered January 17, 2014

A BILL to amend and reenact § 33.1-23.5:4 of the Code of Virginia and the fifth enactment of Chapter 896 of the Acts of Assembly of 2007, as amended by Chapter 871 of the Acts of Assembly of 2009, and to amend the Code of Virginia by adding in Title 33.1 a chapter numbered 19, consisting of sections numbered 33.1-466 through 33.1-476, relating to establishment of the Hampton Roads Transportation Accountability Commission; funding.

Patron—Jones

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

1. That § 33.1-23.5:4 of the Code of Virginia is amended and reenacted and 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 33.1-476, as follows:

**§ 33.1-23.5:4. Hampton Roads Transportation Fund established.**

There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Transportation Fund, hereafter referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to § 58.1-638 and Chapter 22.1 (§ 58.1-2291 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The moneys deposited in the fund shall be used solely for new construction projects on new or existing roads highways, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Planning Organization Accountability Commission. The Hampton Roads Transportation Planning Organization Accountability Commission shall give priority to those projects that are expected to provide the greatest impact on reducing congestion and shall ensure that the moneys shall be used for such construction projects in all localities comprising Planning District 23.

The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of local, federal, or state revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

**CHAPTER 19.****HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION.****§ 33.1-466. Commission created.**

The Hampton Roads Transportation Accountability Commission, referred to in this chapter as "the Commission," is hereby created as a body politic and as a political subdivision of the Commonwealth. The Commission shall embrace each county and city located in Planning District 23, which is established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.

**§ 33.1-467. Composition of Commission.**

The Commission shall consist of 21 members as follows:

1. The chief elected officer of the governing body of each of the 14 counties and cities embraced by the Commission;

2. Two members of the House of Delegates who reside in different counties or cities embraced by the Commission, appointed by the Speaker of the House, and one member of the Senate who resides in a county or city embraced by the Commission, appointed by the Senate Committee on Rules; and

3. The following four persons serving as nonvoting ex officio members of the Commission: a member of the Commonwealth Transportation Board who resides in a locality embraced by the Commission and is appointed by the Governor; the Director of the Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; the Executive Director of the Virginia Port Authority, or his designee.

All members of the Commission shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointment.

The Commission shall elect a chairman and vice-chairman from among its voting membership.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the

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59 financial accounts of the Commission, and the cost of such audit shall be borne by the Commission.

60 **§ 33.1-468. Staff.**

61 The Commission shall employ a chief executive officer and such staff as it shall determine to be  
62 necessary to carry out its duties and responsibilities under this chapter. No such person shall  
63 contemporaneously serve as a member of the Commission. The Department of Transportation and the  
64 Department of Rail and Public Transportation shall make their employees available to assist the  
65 Commission, upon request.

66 **§ 33.1-469. Decisions of Commission.**

67 A majority of the Commission, which majority shall include at least a majority of the chief elected  
68 officers of the counties and cities embraced by the Commission, shall constitute a quorum. Decisions of  
69 the Commission shall require a quorum and shall be in accordance with voting procedures established  
70 by the Commission. In all cases, decisions of the Commission shall require the affirmative vote of  
71 two-thirds of the members of the Commission present and voting, and two-thirds of the chief elected  
72 officers of the counties and cities embraced by Planning District 23 who are present and voting and  
73 whose counties and cities include at least two-thirds of the population embraced by the Commission;  
74 however, no motion to fund a specific facility or service shall fail because of this population criterion if  
75 such facility or service is not located or to be located or provided or to be provided within the county  
76 or city whose chief elected officer's sole negative vote caused the facility or service to fail to meet the  
77 population criterion. The population of counties and cities embraced by the Commission shall be the  
78 population as determined by the most recently preceding decennial census, except that on July 1 of the  
79 fifth year following such census, the population of each county and city shall be adjusted, based on  
80 population projections made by the Weldon Cooper Center for Public Service of the University of  
81 Virginia.

82 **§ 33.1-470. Annual budget and allocation of expenses.**

83 A. The Commission shall adopt an annual budget and develop a funding plan and shall provide for  
84 such adoption in its bylaws. The funding plan shall provide for the expenditure of funds over a four- to  
85 six-year period and shall align with the Statewide Transportation Plan established pursuant to  
86 § 33.1-23.03 as much as possible. The Commission shall solicit public comment on its budget and  
87 funding plan by posting a summary of such budget and funding plan on its website and holding a public  
88 hearing. Such public hearing shall be advertised on the Commission's website and in a newspaper of  
89 general circulation in Planning District 23.

90 B. The administrative expenses of the Commission, as provided in an annual budget adopted by the  
91 Commission, to the extent funds for such expenses are not provided from other sources, shall be  
92 allocated among the component counties and cities on the basis of the relative population, as  
93 determined pursuant to § 33.1-469. Such budget shall be limited solely to the administrative expenses of  
94 the Commission and shall not include any funds for construction or acquisition of transportation  
95 facilities or the performance of any transportation service.

96 C. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813  
97 and 2.2-2825, if approved by the Commission. Funding for the costs of compensation and expenses of  
98 the members shall be provided by the Commission.

99 **§ 33.1-471. Authority to issue bonds.**

100 The Commission may issue bonds and other evidences of debt as may be authorized by this section  
101 or other law. The provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of Title 15.2 shall apply,  
102 mutatis mutandis, to the issuance of such bonds or other debt. The Commission may issue bonds or  
103 other debt in such amounts as it deems appropriate. The bonds may be supported by any funds  
104 available, except that funds from tolls collected pursuant to § 33.1-472 shall be used only as provided in  
105 that section.

106 **§ 33.1-472. Powers of the Commission.**

107 Notwithstanding any contrary provision of this title and in accordance with all applicable federal  
108 statutes and requirements, the Commission shall control and operate and may impose and collect tolls  
109 in amounts established by the Commission for the use of any new or improved highway, bridge, or  
110 tunnel, to increase capacity on such facility or to address congestion within Planning District 23,  
111 constructed by the Commission (i) with federal, state, or local funds, (ii) solely with revenues of the  
112 Commission, or (iii) with revenues under the control of the Commission. The amount of any such toll  
113 may be varied from facility to facility, by lane, by congestion levels, by day of the week, by time of day,  
114 by type or size of vehicle, by number of axles, or by any similar combination thereof or any other factor  
115 the Commission may deem proper, and a reduced rate may be established for commuters as defined by  
116 the Commission. All such tolls shall be used for programs and projects that are reasonably related to or  
117 benefit the users of the new or improved highway, bridge, or tunnel, including, but not limited to, for  
118 the debt service and other costs of bonds whose proceeds are used for construction or improvement of  
119 such highway, bridge, or tunnel.

120 Any tolls imposed by the Commission shall be collected by an electronic toll system that, to the

extent possible, shall not impede the traffic flow of the facility or prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. For all facilities tolled by the Commission, there shall be signs erected prior to the point of toll collection that clearly state how the majority of the toll revenue is being spent by the Commission to benefit the users of the facility.

**§ 33.1-473. Additional powers of the Commission.**

A. The Commission shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Commission or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Commission's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from the United States and agencies or instrumentalities thereof; the Commonwealth; and any political subdivision, agency, or instrumentality of the Commonwealth; and from any legitimate private source;

6. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise for purposes consistent with this chapter and to hold, encumber, sell, or otherwise dispose of such land or interest for purposes consistent with this chapter;

7. To acquire by purchase, lease, contract, or otherwise, highways, bridges, or tunnels and to construct the same by purchase, lease, contract, or otherwise;

8. In consultation with the Commonwealth Transportation Board and with each city or county in which the facility or any part thereof is or is to be located, to repair, expand, enlarge, construct, reconstruct, or renovate any or all highways, bridges, and tunnels within Planning District 23 and to acquire any real or personal property needed for any such purpose;

9. To enter into agreements or leases with public or private entities for the operation and maintenance of bridges, tunnels, transit and rail facilities, and highways;

10. To make and execute contracts, deeds, mortgages, leases, 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 chapter;

11. To the extent funds are made or become available to the Commission to do so, to employ employees, agents, advisors, and consultants, including without limitation attorneys, financial advisers, engineers, and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation; and

12. To the extent not inconsistent with the other provisions of this chapter, and without limiting or restricting the powers otherwise given the Commission, to exercise all of the powers given to transportation district commissions by § 15.2-4518.

B. The Commission shall comply with the provisions governing localities contained in § 15.2-2108.23.

**§ 33.1-474. Commission a responsible public entity under Public-Private Transportation Act of 1995.**

The Commission is a responsible public entity as defined in § 56-557 and shall be regulated in accordance with the terms of the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) and regulations and guidelines adopted pursuant thereto.

**§ 33.1-475. Continuing responsibilities of the Commonwealth Transportation Board and the Department of Transportation.**

Except as otherwise explicitly provided in this chapter, until such time as the Commission and the Department of Transportation, or the Commission and the Commonwealth Transportation Board, agree otherwise in writing, the Commonwealth Transportation Board shall allocate funding to and the Department of Transportation shall perform or cause to be performed all maintenance and operation of the bridges, tunnels, and roadways and shall perform such other required services and activities with respect to such bridges, tunnels, and roadways as were being performed on July 1, 2014.

**§ 33.1-476. Use of revenues by the Commission.**

Notwithstanding any other provision of this chapter, all moneys received by the Commission shall be used by the Commission solely for the benefit of those counties and cities that are embraced by the Commission, and such moneys shall be used by the Commission in a manner that is consistent with the purposes stated in this chapter.

2. That the staff of the Hampton Roads Transportation Planning Organization and the

182 Department of Transportation shall work cooperatively to assist the proper formation and effective  
183 organization of the Hampton Roads Transportation Accountability Commission. Until such time as  
184 the Commission is fully established and functioning, the staff of the Hampton Roads  
185 Transportation Planning Organization shall serve as its staff, and the Hampton Roads  
186 Transportation Planning Organization shall provide the Commission with office space and  
187 administrative support. The Commission shall reimburse the Hampton Roads Transportation  
188 Planning Organization for the cost of such staff, office space, and administrative support as  
189 appropriate.

190 3. That should any portion of this act be held unconstitutional by a court of competent  
191 jurisdiction, the remaining portions of this act shall remain in effect.

192 4. That the fifth enactment of Chapter 896 of the Acts of Assembly of 2007, as amended by  
193 Chapter 871 of the Acts of Assembly of 2009, is amended and reenacted as follows:

194 5. That the Hampton Roads Metropolitan Planning Organization, whose membership may be  
195 expanded by vote of the Hampton Roads Metropolitan Planning Organization, with the  
196 concurrence of the Governor, to include members of the House of Delegates as selected by the  
197 Speaker of the House of Delegates and members of the Senate of Virginia as selected by the  
198 Senate Committee on Rules, *Transportation Accountability Commission* shall develop as part of a  
199 long-range plan quantifiable measures and achievable goals for the Hampton Roads metropolitan  
200 planning area relating to *embraced by Planning District 23*, but not limited to, congestion reduction  
201 and safety, transit and high-occupancy vehicle (HOV) usage, job-to-housing ratios, job and housing  
202 access to transit and pedestrian facilities, air quality, and per-capita vehicle miles traveled. In  
203 addition, the Northern Virginia Transportation Authority established under § 15.2-4830 of the  
204 Code of Virginia shall also develop as part of a long-range plan quantifiable measures and  
205 achievable goals for the area embraced by the Authority relating to, but not limited to, congestion  
206 reduction and safety, transit and high-occupancy vehicle (HOV) usage, job-to-housing ratios, job  
207 and housing access to transit and pedestrian facilities, air quality, and per-capita vehicle miles  
208 traveled. Such goals shall be subject to the approval of the Commonwealth Transportation Board  
209 on a biennial basis.