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SENATE BILL NO. 513

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 33.1-23.5:4 of the Code of Virginia 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 33.1-477, relating to transportation in Hampton Roads.

Patrons—Wagner and Lucas

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 33.1-477, 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, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Planning Organization Authority. The Hampton Roads Transportation Planning Organization Authority 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 AUTHORITY.****§ 33.1-466. Authority created.**

There is hereby created a political subdivision of the Commonwealth known as the Hampton Roads Transportation Authority, referred to in this chapter as "the Authority."

In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:

1. The Authority shall prepare a regional transportation plan for Planning District 23 that includes transportation improvements of regional significance, and those improvements necessary or incidental thereto, and shall revise and amend the plan. The provisions of Article 7 (§ 15.2-4527 et seq.) of Chapter 45 of Title 15.2 shall apply, mutatis mutandis, to preparation of such transportation plan.

2. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such transportation plan.

3. The Authority may enter into agreements or leases with public or private entities for the operation of its facilities or may operate such facilities itself.

4. The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transportation commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any federal, state, local, or private entity to provide, or cause to be provided, transportation facilities and services to the area embraced by the Authority. Such contracts or agreements, together with all agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transportation facilities and such contracts, agreements or leases shall inure to the benefit of any creditor of the Authority.

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59 Notwithstanding subdivisions 1 through 4, the Authority shall not have the power to regulate services
60 provided by taxicabs, either within municipalities or across municipal boundaries; such regulation is
61 expressly reserved to the municipalities within which taxicabs operate.

62 5. Notwithstanding any other provision of law to the contrary, the Authority may:

63 a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation
64 facilities thereon for use in connection with any transportation service;

65 b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or
66 contribution to an agency, for use by that agency in connection with an adopted transportation plan;
67 and

68 c. Prepare a plan for mass transportation services with persons, counties, cities, agencies,
69 authorities, or transportation commissions and may further contract with any such person or entity to
70 provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to
71 such plan.

72 **§ 33.1-467. Counties and cities embraced by the Authority.**

73 The Authority shall embrace the Counties of Gloucester, Isle of Wight, James City, Southampton,
74 Surry, and York and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth,
75 Poquoson, Suffolk, Virginia Beach, and Williamsburg.

76 **§ 33.1-468. Composition of Authority; membership; terms.**

77 The Authority shall consist of 24 members as follows:

78 1. The chief elected officer of the governing body of each county and city embraced by the Authority
79 or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of
80 such governing body;

81 2. Two members of the House of Delegates who reside in different counties or cities embraced by the
82 Authority, appointed by the Speaker of the House and, to the extent practicable, from the membership of
83 the House Committee on Appropriations, the House Committee on Finance, or the House Committee on
84 Transportation;

85 3. One member of the Senate who resides in a county or city embraced by the Authority, appointed
86 by the Senate Committee on Rules and, to the extent practicable, from the membership of the Senate
87 Committee on Finance and the Senate Committee on Transportation;

88 4. Two nonlegislative citizen members who reside in different counties or cities embraced by the
89 Authority, appointed by the Governor. One such gubernatorial appointment shall be a member of the
90 Commonwealth Transportation Board and one shall be a person who has significant experience in
91 transportation planning, finance, engineering, construction, or management; and

92 5. The following three persons shall serve as nonvoting ex officio members of the Authority: the
93 Director of the Virginia Department of Rail and Public Transportation, or his designee; the
94 Commissioner of Highways, or his designee; and the chief elected officer of one town in a county
95 embraced by the Authority to be chosen by the Authority.

96 All members of the Authority shall serve terms coincident with their terms of office, except that the
97 gubernatorial appointee who is not a member of the Board shall serve for a term of four years. A
98 vacancy occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies
99 shall be filled in the same manner as the original appointments.

100 The Authority shall appoint a chairman and vice-chairman from among its membership.

101 **§ 33.1-469. Staff.**

102 The Authority shall employ a chief executive officer and such staff as it shall determine to be
103 necessary to carry out its duties and responsibilities under this chapter. No such person shall
104 contemporaneously serve as a member of the Authority. The Department of Transportation and the
105 Department of Rail and Public Transportation shall make their employees available to assist the
106 Authority, upon request.

107 **§ 33.1-470. Decisions of Authority.**

108 A majority of the Authority, which majority shall include at least a majority of the representatives of
109 the counties and cities embraced by the Authority, shall constitute a quorum. Decisions of the Authority
110 shall require a quorum and shall be in accordance with voting procedures established by the Authority.
111 In all cases, decisions of the Authority shall require the affirmative vote of two-thirds of the members of
112 the Authority present and voting and two-thirds of the representatives of the counties and cities
113 embraced by the Authority who are present and voting and whose counties and cities include at least
114 two-thirds of the population embraced by the Authority; however, no motion to fund a specific facility or
115 service shall fail because of this population criterion if such facility or service is not located or to be
116 located or provided or to be provided within the county or city whose representative's sole negative vote
117 caused the facility or service to fail to meet the population criterion. The population of counties and
118 cities embraced by the Authority shall be the population as determined by the most recently preceding
119 decennial census, except that on July 1 of the fifth year following such census, the population of each
120 county and city shall be adjusted, based on population projections made by the Weldon Cooper Center

for Public Service of the University of Virginia.

§ 33.1-471. Allocation of certain Authority expenses among component counties and cities.

The administrative expenses of the Authority, as provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties and cities on the basis of the relative population, as determined pursuant to § 33.1-470. Such budget shall be limited solely to the administrative expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service.

§ 33.1-472. Payment to members of Authority.

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

§ 33.1-473. Formation of advisory committees.

A. The Authority shall have a technical advisory committee, consisting of nine individuals who reside or are employed in counties and cities embraced by the Authority and have experience in transportation planning, finance, engineering, construction, or management. Six members shall be appointed by localities embraced by the Authority and three members shall be appointed by the Chairman of the Commonwealth Transportation Board. The technical advisory committee shall advise and provide recommendations on the development of projects as required by § 33.1-474 and funding strategies and other matters as directed by the Authority.

B. The Authority also shall have a planning coordination advisory committee that shall include at least one elected official from each town that is located in any county embraced by the Authority and receives street maintenance payments under § 33.1-41.1.

C. The Authority may form additional advisory committees.

§ 33.1-474. Responsibilities of Authority for long-range transportation planning.

The Authority shall be responsible for long-range transportation planning for regional transportation projects in Hampton Roads. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus, whenever possible, set regional transportation policies and priorities for regional transportation projects. The policies and priorities shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner.

§ 33.1-475. Use of certain revenues by the Authority.

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 33.1-476 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. 1. Except as provided in subdivision 2, 30 percent of the revenues received by the Authority under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of such fee and taxes received by the Authority. Of the revenues distributed pursuant to this subsection, as determined solely by the applicable locality, such revenues shall be used for additional urban or secondary highway construction, for other capital improvements that reduce congestion, for other transportation capital improvements that have been approved by the most recent long-range transportation plan adopted by the Authority, or for public transportation purposes. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2014. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Hampton Roads Transportation Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection

C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

182 C. 1. The remaining 70 percent of the revenues received by the Authority under subsection A, plus
183 the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority
184 solely to fund (i) transportation projects selected by the Authority that are contained in the regional
185 transportation plan in accordance with § 33.1-466 and that have been rated in accordance with §
186 33.1-13.03:1 or (ii) mass transit capital projects that increase capacity. For only those regional funds
187 received in fiscal year 2014, the requirement for rating in accordance with § 33.1-13.03:1 shall not
188 apply. The Authority shall give priority to selecting projects that are expected to provide the greatest
189 congestion reduction relative to the cost of the project and shall document this information for each
190 project selected. Such projects selected by the Authority for funding shall be located (a) only in
191 localities embraced by the Authority or (b) in adjacent localities but only to the extent that such
192 extension is an insubstantial part of the project and is essential to the viability of the project within the
193 localities embraced by the Authority.

194 2. All transportation projects undertaken by the Hampton Roads Transportation Authority shall be
195 completed by private contractors accompanied by performance measurement standards, and all contracts
196 shall contain a provision granting the Authority the option to terminate the contract if contractors do
197 not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services
198 or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the
199 strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible
200 and advantageous. The Authority is independent of any state or local entity, including the Department of
201 Transportation and the Commonwealth Transportation Board, but the Authority, the Department of
202 Transportation, and the Commonwealth Transportation Board shall consult with one another to avoid
203 duplication of efforts and, at the option of the Authority, may combine efforts to complete specific
204 projects. Notwithstanding the foregoing, at the request of the Authority, the Department of
205 Transportation may provide the Authority with engineering services or right-of-way acquisition for the
206 project with its own forces.

207 3. With regard to the revenues distributed under subdivision 1, each locality's total long-term benefit
208 shall be approximately equal to the proportion of the total of the fees and taxes received by the
209 Authority that are generated by or attributable to the locality divided by the total of such fees and taxes
210 received by the Authority.

211 D. For road construction and improvements pursuant to subsection B, the Department of
212 Transportation may, on a reimbursement basis, provide the locality with planning, engineering,
213 right-of-way, and construction services for projects funded in whole by the revenues provided to the
214 locality by the Authority.

215 **§ 33.1-476. Authority to issue bonds.**

216 The Authority may issue bonds and other evidences of debt as may be authorized by this section or
217 other law. The provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of Title 15.2 shall apply,
218 mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other
219 debt in such amounts as it deems appropriate. The bonds may be supported by any funds available
220 except that funds from tolls collected pursuant to subdivision 7 of § 33.1-477 shall be used only as
221 provided in that subdivision.

222 **§ 33.1-477. Other duties and responsibilities of Authority.**

223 In addition to other powers granted in this chapter, the Authority shall have the following duties and
224 responsibilities:

225 1. Providing general oversight of regional programs involving mass transit or congestion mitigation,
226 including carpooling, vanpooling, and ridesharing;

227 2. Providing long-range regional planning, both financially constrained and unconstrained;

228 3. Recommending to federal, state, and regional agencies regional transportation priorities, including
229 public-private transportation projects and funding allocations;

230 4. Developing, in coordination with affected counties and cities, regional priorities and policies to
231 improve air quality;

232 5. Allocating to priority regional transportation projects funds made available to the Authority and,
233 at the discretion of the Authority, directly overseeing such projects;

234 6. Recommending to the Commonwealth Transportation Board priority regional transportation
235 projects for receipt of federal and state funds;

236 7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by
237 the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the
238 Authority or solely with revenues under the control of the Authority in such a way as to increase the
239 facility's traffic capacity, with the amount of tolls variable by time of day, day of the week, vehicle size
240 or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to
241 be used for programs and projects that are reasonably related to or benefit the users of the applicable
242 facility, including for the debt service and other costs of bonds whose proceeds are used for such
243 construction or reconstruction;

244 8. Providing general oversight of regional transportation issues of a multijurisdictional nature,
245 including intelligent transportation systems, signalization, and preparation for and response to
246 emergencies;

247 9. Serving as an advocate for the transportation needs of Hampton Roads before the state and
248 federal governments;

249 10. Applying to and negotiating with the government of the United States, the Commonwealth, or any
250 agency, instrumentality, or political subdivision thereof for grants and other funds available to carry out
251 the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts,
252 bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held,
253 used, and applied to carry out the purposes of this chapter subject, however, to any condition upon
254 which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of
255 the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money,
256 securities, or other property given or bequeathed to it in furtherance of its purposes;

257 11. Acting as a "responsible public entity" for the purpose of the acquisition, construction,
258 improvement, maintenance, or operation, or any combination thereof, of a "qualifying transportation
259 facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); and

260 12. Deciding on and voting to impose certain fees and taxes authorized under law for imposition or
261 assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or
262 imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and
263 taxes shall be kept in a separate account and shall be used only for the purposes provided in this
264 chapter.

265 **2. That the provisions of this act moving the responsibility for approval of projects and the**
266 **priority of such projects pursuant to the Hampton Roads Transportation Fund from the Hampton**
267 **Roads Planning Organization to the Hampton Roads Transportation Authority by amending**
268 **§ 33.1-23.5:4 shall become effective on July 1, 2015.**