16103031D

HOUSE BILL NO. 1067

Offered January 13, 2016

Prefiled January 13, 2016

A BILL to authorize the Treasury Board to issue bonds pursuant to Article X, Section 9 (c) of the Constitution of Virginia in an amount up to $1,500,000,000 plus financing costs to finance the costs of acquiring, constructing, and equipping I-66 dynamically tolled lanes from I-495 west in Fairfax County to University Boulevard in Prince William County.

Patron—Jones

Referred to Committee on Appropriations

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects of institutions and agencies of the Commonwealth; and

Whereas, the facility described herein is a state highway and a portion of such facility will be operated as dynamically tolled lanes under the authority of the Commonwealth Transportation Board, an agency administered solely by the executive department of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of the capital project identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that such project complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. *§ 1. Title.*

This act shall be known and may be cited as the "Commonwealth of Virginia Transform I-66 Corridor Outside the Beltway Bond Act of 2016."

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Transform I-66 Corridor Outside the Beltway Bonds, Series ....." in an aggregate principal amount not exceeding one billion five hundred million dollars ($1,500,000,000), plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses, shall be used exclusively for the purpose of providing funds, together with any other available funds made available by the Commonwealth Transportation Board, to pay all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping I-66 dynamically tolled lanes from I-495 west in Fairfax County to University Boulevard in Prince William County, consisting of the acquisition and construction of limited access highway lanes and improvements to interchanges and related facilities and the acquisition and installation of tolling equipment and systems.

§ 3. Application of proceeds.

The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying all or any part of the costs of acquisition, construction, renovation, enlargement, improvement, and equipping of the authorized capital project, including financing costs. The proceeds of (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds, and (c) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs.

Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at

INTRODUCED

HB1067

7/30/22 23:38

such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, including but not limited to any lien priority on the pledged net revenues with respect to such bonds and BANs, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding thirty-nine (39) years from their date or dates and BANs shall mature at such time or times not exceeding five (5) years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time, and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds/Bond Anticipation Notes, Series .....".

§ 5. Execution of bonds and BANs.

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. Sources for payment of expenses.

All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the agency for which the capital project was authorized in § 2 hereof, or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues.

The Commonwealth Transportation Board is hereby authorized (i) to fix, revise, charge, and collect tolls, rates, fees, and charges for or in connection with the use, occupancy, and services of the I-66 dynamically tolled lanes from I-495 west to University Boulevard as mentioned in § 2 hereof and for transportation and transit improvements within the I-66 corridor and (ii) to pledge to the bonds or portion thereof or BANs issued for such capital project the net revenues resulting from such tolls, rates, fees, and charges and remaining after payment of the expenses of operating the project. The Commonwealth Transportation Board is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired

by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining, any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs.

The net revenues of the capital project set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax.

The bonds and BANs issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect and to require the Commonwealth Transportation Board to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs.

The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance.

Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (b) or (c), as the case may be, of the Constitution of Virginia.

§ 13. Legal investments.

All obligations issued under the provisions of this act are hereby made securities in which all public officers and bodies of the Commonwealth and political subdivisions thereof, insurance companies and associations, savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees, and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

§ 14. Severability.

The provisions of this act or the application thereof to any person or circumstances that are held invalid shall not affect the validity of other provisions or applications of this act that can be given effect without the invalid provisions or applications.

§ 15. Surplus net revenues.

Notwithstanding any other provisions of this act and to the extent permitted by law, the Commonwealth Transportation Board may provide for additional improvements to the I-66 corridor from I-495 west in Fairfax County to University Boulevard in Prince William County, including, but not limited to, mass transit, including rail, and capacity-enhancing treatments, such as dynamically tolled and High Occupancy Vehicle lanes, interchange improvements, commuter parking lots, and other transportation management strategies, from surplus net revenues of the I-66 corridor prior to provision being made for the retirement of all bonds issued under the provisions of this act.

§ 16. Appropriation.

The proceeds of the bonds are hereby appropriated for disbursement from the state treasury pursuant to Article X, Section 7 of the Constitution of Virginia and § 2.2-1819 of the Code of Virginia. The general conditions and general provisions of the general appropriation act enacted pursuant to Chapter 15 (§ 2.2-1500 et seq.) of Title 2.2 of the Code of Virginia, in effect from time to time, and all of the terms and conditions contained therein shall apply to the capital project listed in this act.

2. That the debt authorized in the first enactment of this act shall only be issued if, after the enactment of this act but prior to January 1, 2018, the Transportation Public-Private Partnership Advisory Committee established pursuant to § 33.2-1803.2 of the Code of Virginia finds that the issuance of such debt is necessary due to the inability of the private parties to meet the term sheet published by the Department of Transportation pursuant to the procurement initiated under the Public-Private Transportation Act of 1995, Chapter 18 (§ 33.2-1800 et seq.) of Title 33.2 of the Code of Virginia, in September 2015.