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SENATE BILL NO. 339

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 3, 2022)

(Patron Prior to Substitute—Senator Barker)

A *BILL to amend and reenact § 33.2-1526.1 of the Code of Virginia and to repeal the seventh enactment of Chapter 854 and the seventh enactment of Chapter 856 of the Acts of Assembly of 2018, relating to Washington Metropolitan Area Transit Authority; alternate directors.*

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, beginning in fiscal year 2022, up to \$50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following:

1. Twenty-seven percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied. The Washington Metropolitan Area Transit Authority (WMATA) shall not be eligible for an allocation of funds pursuant to this subdivision.

2. Eighteen percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. The Washington Metropolitan Area Transit Authority shall not be eligible for an allocation of funds pursuant to this subdivision.

3. Forty-six and one-half percent of the funds shall be allocated to the Northern Virginia Transportation Commission for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission.

4. Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.3.

5. Two and one-half percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

E. The Board may consider the transfer of funds from subdivisions D 2 and 5 to subdivision D 1 in times of statewide economic distress or statewide special need.

F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from year to year, provided that such balance shall not exceed five percent of revenues in a

60 given biennium.

61 G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of
62 project development, project administration, and project compliance incurred by the Department of Rail
63 and Public Transportation in implementing rail, public transportation, and congestion management grants
64 and programs.

65 H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA
66 pursuant to subdivision D 3 shall be credited to the Counties of Arlington and Fairfax and the Cities of
67 Alexandria, Fairfax, and Falls Church. Beginning in the fiscal year when service starts on Phase II of
68 the Silver Line, such funds shall also be credited to Loudoun County. Funds allocated pursuant to this
69 subsection shall be credited as follows:

70 1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
71 using WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for
72 these payments.

73 2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
74 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
75 include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of
76 Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's
77 jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

78 I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as
79 defined by P.L. 96-184.

80 J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the
81 Department of Rail and Public Transportation directly to WMATA or to any other transportation entity
82 that has an agreement to provide funding to WMATA.

83 K. In any year that the total Virginia operating assistance in the approved WMATA budget increases
84 by more than three percent from the total operating assistance in the prior year's approved WMATA
85 budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision
86 D 3. The following items shall not be included in the calculation of any WMATA budget increase: (i)
87 any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any
88 capital project approved by the WMATA Board before or after the effective date of this provision; (iii)
89 any payments or obligations of any kind arising from or related to legal disputes or proceedings between
90 or among WMATA and any other person or entity; and (iv) any service increases approved by the
91 WMATA Board.

92 ~~L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 if (i) any~~
93 ~~alternate directors participate or take action at an official WMATA Board meeting or committee meeting~~
94 ~~as Board directors for a WMATA compact member when both directors appointed by that same~~
95 ~~WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the~~
96 ~~WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate~~
97 ~~directors.~~

98 **2. That the seventh enactment of Chapter 854 and the seventh enactment of Chapter 856 of the**
99 **Acts of Assembly of 2018 are repealed.**