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SENATE BILL NO. 445

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to direct the Commissioner of Highways to evaluate whether roadways operating under the Virginia Highway Corporation Act of 1988 should operate under the Public-Private Transportation Act of 1995.

Patron—Boysko

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. *§ 1. The Commissioner of Highways (the Commissioner), in consultation with the Secretary of Transportation and the Secretary of Finance, shall evaluate whether it is in the public interest for any roadway within the Commonwealth operated pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq. of the Code of Virginia), hereinafter referred to as the HCA, to instead be operated as a qualifying transportation facility under the authority and requirements provided by the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq. of the Code of Virginia), hereinafter referred to as the PPTA. Such evaluation of the public interest shall consider (i) the applicable commercial and financial terms and enhancements to any such roadway, including the implementation of distance-based tolling, and (ii) benefits to the commuters that use such roadway and opportunities for a reduction in toll rates, including the toll rate for a full-length trip. Prior to making any determination of whether such a transfer is in the public interest, the Commissioner shall (a) solicit input from the boards of supervisors of the impacted jurisdictions and (b) hold a meeting of the Transportation Public-Private Partnership Steering Committee (the Committee) established pursuant to § 33.2-1803.2 of the Code of Virginia to outline the goals and objectives of the evaluation. Following the meeting of the Committee, the Commissioner shall hold two public meetings to solicit input from interested stakeholders.*

The Commissioner shall initiate a nondisclosure agreement (NDA) with the chair of the board of supervisors, the chair of the county's transportation and land use committee or comparable committee and the county attorney of any jurisdiction that contains within the borders of that jurisdiction at least 51 percent of any road operated under the HCA. Such NDA shall prohibit the disclosure of private financial data, proprietary data, and any other confidential data as determined by the Commissioner. Such NDA may authorize the disclosure of such data to members of the board of supervisors of such jurisdiction in a closed meeting. Any data subject to such NDA shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

In the event that the Commissioner determines, based on the evaluation and proposed major business terms, that it is in the public interest for any roadway in the Commonwealth operated pursuant to the HCA to instead be operated under the authority and requirements provided by the PPTA, and the Secretary of Transportation concurs, the Commissioner shall present such proposed major business terms and findings to the Committee for its consideration. Prior to presenting the major business terms to the Committee, the Commissioner shall solicit and publish public comment on such proposed major business terms. If the Committee concurs that such operation under the authority and requirements of the PPTA is in the public interest, the General Assembly hereby authorizes the Commissioner to negotiate and execute a new comprehensive agreement between the roadway operator and the Department of Transportation. Notwithstanding § 56-551 of the Code of Virginia, upon execution of such new comprehensive agreement, the corresponding roadway will immediately become subject to the PPTA. Upon the execution of the new comprehensive agreement, the State Corporation Commission shall retain no further authority with respect to such operation and shall transfer all of its records and regulatory oversight responsibilities regarding such roadway to the Department of Transportation.

In the absence of an executed new comprehensive agreement as authorized hereunder, the State Corporation Commission shall continue to fulfill its regulatory responsibilities under the HCA. The following provisions of the PPTA shall not apply to a new comprehensive agreement entered into under this act: subsection B of § 33.2-1801, §§ 33.2-1802, 33.2-1803, and 33.2-1803.1, subsections B and C of § 33.2-1803.2, and §§ 33.2-1819 and 33.2-1820 of the Code of Virginia.

2. That the provisions of this act shall expire on January 1, 2024.

INTRODUCED

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