

LD7218168

SENATE BILL NO. 500

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 25, 1994)

(Patron Prior to Substitute—Senator Colgan)

A *BILL to authorize the issuance of Commonwealth of Virginia Transportation Revenue Bonds, by and with the consent of the Governor pursuant to the provisions of Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1 of the Code of Virginia and as permitted by Section 9 (d) of Article X of the Constitution of Virginia, in a principal amount not exceeding \$82,389,000, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (including, without limitation, any original issue discount), for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs incurred or to be incurred for construction of an adequate, modern, safe, and efficient transportation system in that part of the Commonwealth that comprises the Interstate 66 Economic Development Program; authorizing the Commonwealth Transportation Board to fix the details of such bonds and to provide for the sale of such bonds at public or private sale; providing for the pledge under a payment agreement with the Treasury Board of Transportation Trust Fund revenues, including funds which may be otherwise appropriated by the General Assembly; further providing that the interest income from such bonds shall be exempt from all taxation within the Commonwealth; and to amend the Code of Virginia by adding a section numbered 58.1-2146.1, relating to the creation of the Interstate 66 Economic Development Program Fund.*

Whereas, Section 9 (d) of Article X of the Constitution of Virginia and §§ 33.1-267 through 33.1-295 of the Code of Virginia provide that the General Assembly may authorize the issuance of bonds secured by Transportation Trust Fund revenues under a payment agreement between the Commonwealth Transportation Board and the Treasury Board, subject to appropriations by the General Assembly and payable first from (i) revenues received from the Interstate 66 Economic Development Program Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly; and

Whereas, the projects described herein will be state highways operated and maintained by the Commonwealth Transportation Board as described in § 33.1-12; now, therefore,

Be it enacted by the General Assembly of Virginia:

1.

§ 1. *This act shall be known and may be cited as the "Interstate 66 Economic Development Program, Commonwealth of Virginia Revenue Bond Act of 1994."*

§ 2. *The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295 of the Code of Virginia, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Revenue Bonds, Series, " in an aggregate principal amount not exceeding \$82,389,000, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (including, without limitation, original issue discount) (the "Bonds"). The proceeds of such Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects that comprise the Interstate 66 Economic Development Program as hereinafter defined and as established in Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, consisting of environmental and engineering studies, rights-of-way acquisition, construction and related improvements (the "projects"). Such costs shall include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects.*

The projects constitute the Interstate 66 Economic Development Program and consist generally of the design, acquisition and construction of certain improvements to, and contiguous to, Interstate 66 in the northwest area of Prince William County in the vicinity of the northwest quadrant of the intersection of Interstate 66 and U.S. Route 15, including but not limited to (1) capacity enhancement improvements to Interstate 66 from the existing interchange with State Route 234 to and through a new interchange to be constructed west of the existing interchange with U.S. Route 15; (2) improvements to the existing interchange at U.S. Route 29; and (3) construction of capacity enhancement improvements to U.S. Route 15 from the interchange with Interstate 66 north for approximately 2.7 miles.

The Bonds shall be issued by the Commonwealth Transportation Board and sold through the

HOUSE SUBSTITUTE

SB500H1

60 Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth
61 Transportation Board with respect to the Bonds. The Treasury Board's duties shall include the approval
62 of the terms and structure of the Bonds.

63 § 3. The proceeds of the Bonds herein authorized shall be made available by the Commonwealth
64 Transportation Board to pay the costs of the projects and, where appropriate, may be paid to any
65 authority, locality or commission for the purpose of paying for the costs of the projects. The proceeds of
66 the Bonds may be used with any federal, local or private funds which may be made available for such
67 purpose.

68 § 4. The Bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at
69 such time or times not exceeding thirty years from their date or dates, as may be determined by the
70 Commonwealth Transportation Board, or by a formula or method established by resolution of the
71 Commonwealth Transportation Board, and may be made redeemable before their maturity or maturities,
72 at such price or prices and under such terms and conditions as may be fixed by the Commonwealth
73 Transportation Board prior to the issuance of the Bonds. The principal of and the interest on the Bonds
74 shall be made payable in lawful money of the United States of America. The Commonwealth
75 Transportation Board shall determine the form of the Bonds and fix the denomination or denominations
76 of the Bonds and the place or places of payment of principal and interest thereof, which may be at the
77 office of the State Treasurer or any bank or trust company within or without the Commonwealth.

78 All Bonds issued under the provisions of this Act shall have and are hereby declared to have, as
79 between successive holders, all the qualities and incidents of negotiable instruments under the negotiable
80 instruments law of the Commonwealth.

81 The Bonds may be issued under a system of book entry for recording the ownership and transfer of
82 ownership of rights to receive payments of principal of and premium, if any, and interest on the Bonds.

83 The Bonds may be sold at a public or private sale for such price or prices as the Commonwealth
84 Transportation Board may determine to be in the best interests of the Commonwealth.

85 § 5. The Bonds shall be signed on behalf of the Commonwealth by the Commonwealth
86 Transportation Commissioner of the Commonwealth Transportation Board or shall bear his facsimile
87 signature, shall bear the official seal of the Board, and shall be attested by the Secretary of the Board.
88 Any interest coupons shall bear a facsimile of the signature of the Commonwealth Transportation
89 Commissioner. In the event that the Bonds shall bear the facsimile signature of the Commonwealth
90 Transportation Commissioner, the Bonds shall be signed by such administrative assistant as the
91 Commonwealth Transportation Commissioner shall determine or by any Registrar/Paying Agent that
92 may be designated by the Treasury Board. In case any officer, whose signature or a facsimile of whose
93 signature appears on any Bonds or coupons, shall cease to be such officer before the delivery of such
94 Bonds, his signature or facsimile signature shall nevertheless be valid and sufficient for all purposes as
95 if he had remained in office until such delivery.

96 § 6. All expenses incurred under this Act shall be paid from the proceeds of the Bonds or from any
97 available funds as the Commonwealth Transportation Board shall determine.

98 § 7. Subject to the condition set forth hereinafter in § 15, the Commonwealth Transportation Board is
99 hereby authorized to borrow money at such rate or rates through the execution and issuance of notes of
100 the Commonwealth for the same, but only in the following circumstances and under the following
101 conditions:

102 a. In anticipation of the sale of the Bonds, the issuance of which shall have been authorized by the
103 Commonwealth Transportation Board and shall have been approved by the Governor, if the
104 Commonwealth Transportation Board shall deem it advisable to postpone the issuance of the Bonds.

105 b. For the renewal of any loan evidenced by notes herein authorized.

106 § 8. The proceeds of the Bonds and of the bond anticipation notes herein authorized (except the
107 proceeds of bonds, the issuance of which has been anticipated by such bond anticipation notes) shall be
108 placed by the State Treasurer in a special fund in the state treasury, or with his concurrence may be
109 placed in accordance with § 33.1-283, and shall be disbursed only for the purpose for which such
110 Bonds and such bond anticipation notes shall be issued; however, proceeds derived from the sale of
111 Bonds or renewal herein authorized shall be first used in the payment of any bond anticipation notes
112 that may have been issued in anticipation of the sale of such Bonds and any renewals of such notes.

113 § 9. The Commonwealth Transportation Board is hereby authorized to receive any other funds,
114 including Surface Transportation Program funds, that may be made available to pay the cost of the
115 projects and to make available the same to the payment of the principal of and the interest on the debt
116 authorized hereby and to enter into the appropriate agreements to allow for these funds to be paid into
117 the state treasury to pay a part of the cost of the projects or to pay the principal of and the interest on
118 such debt.

119 § 10. The Commonwealth Transportation Board, prior to the issuance of the Bonds, may establish a
120 minimum reserve fund requirement for the Bonds.

121 § 11. The Commonwealth Transportation Board, prior to the issuance of the Bonds, shall establish a

sinking fund for the payment of the Bonds to the credit of which there shall be deposited such amounts as are required to pay debt service on the Bonds due and payable for such fiscal years first from (i) revenues received from the Interstate 66 Economic Development Program Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly.

§ 12. Bond proceeds and moneys in any reserve funds and sinking funds shall be invested by the State Treasurer in accordance with the provisions of general law relating to the investment of such funds belonging to or in the control of the Commonwealth, or with the State Treasurer's concurrence by a trustee in accordance with § 33.1-283.

§ 13. The interest income from, but not any profit made on the sale of, the Bonds, notes and coupons, if any, issued under the provisions of this Act, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof.

§ 14. All bonds and notes issued under the provisions of this Act are hereby made securities in which all of the following may properly and legally invest funds under their control: all public officers and bodies of the Commonwealth; all counties, cities, towns and municipal subdivisions; all insurance companies and associations; all savings banks and savings institutions, including savings and loan associations; administrators; guardians; executors; trustees; and other fiduciaries in the Commonwealth.

§ 15. The authority granted hereunder to the Commonwealth Transportation Board is expressly conditioned upon:

1. Approval by the Board of Supervisors of Prince William County of the rezoning and site plan for an area of at least 2,500 acres contiguous to the proposed interchange for a project which shall require a capital investment of at least \$500,000,000, as certified to the Commonwealth Transportation Board by the Clerk of the Board of Supervisors of Prince William County or other appropriate county official; and

2. Approval by the United States Department of Transportation of (i) a regional Transportation Improvement Program for the Washington metropolitan region and (ii) a State Transportation Improvement Program for the Commonwealth of Virginia, pursuant to the Intermodal Surface Transportation Efficiency Act of 1991, 23 U.S.C. §§ 134-35, both of which include the transportation project(s) for which the bonds and notes are to be used.

§ 16. The Commonwealth Transportation Board shall not begin construction of the projects until the necessary state, local, regional and federal permits have been granted and construction has begun for a theme park within the boundaries of the project.

§ 17.a. Before any funds can be allocated by the Commonwealth Transportation Board, the Virginia Department of Transportation shall issue regulations that establish minimum percentages for contracts with Virginia and minority businesses.

b. Before any funds can be allocated by the Commonwealth Transportation Board, the Virginia Department of Transportation shall issue regulations that establish minimum percentages of Virginians and minorities that should be hired by contractors selected for this project.

2. That the Code of Virginia is amended by adding a section numbered 58.1-2146.1 as follows:

§ 58.1-2146.1. Interstate 66 Economic Development Program Fund.

A. There is hereby created in the Department of Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Interstate 66 Economic Development Program Fund (the I-66 Fund), consisting of the increase in collections in the motor fuel and special fuel taxes and the road tax, as well as the sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly, imposed by Chapters 21 and 27 of this title and as estimated in the general appropriation act as attributable to the increase in consumption of motor fuel, special fuel, and use of the highways of the Commonwealth, as well as the increase in transactions subject to the one-half percent sales tax heretofore dedicated to the Transportation Trust Fund, because of the development of a 2,500-acre site in Prince William County with a capital investment of at least \$500,000,000. The I-66 Fund shall also include such other funds as may be appropriated by the General Assembly from time to time, and designated for the I-66 Fund, and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the I-66 Fund at the end of a biennium shall not revert to the general fund, but shall remain in the I-66 Fund. The amount in the I-66 Fund shall be segregated for the construction and maintenance of state highways including the payment of principal and interest on any Commonwealth of Virginia Transportation Revenue Bonds issued to pay the cost of the projects which comprise the Interstate 66 Economic Development Program.

B. In the event the Commonwealth Transportation Board determines from time to time that funds in

183 *the Interstate 66 Economic Development Program Fund are in excess of those required to provide for*
184 *payment of bonds or other obligations, and the interest thereon, then such excess funds may be*
185 *transferred to the Transportation Trust Fund for allocation purposes pursuant to § 33.1-23.1 A.*

186 **3. That if any part of this act or the application thereof to any person or circumstance is held**
187 **invalid by a court of competent jurisdiction, such holding shall not affect the validity of the**
188 **remainder of the provisions or applications of the act which can be given effect without the invalid**
189 **provision or application, and to this end the provisions of this act are severable.**

190 4. That the provisions of this act shall not become effective unless reenacted by the 1995 regular
191 Session of the General Assembly or at any special Session called by the Governor prior to the 1995
192 regular Session of the General Assembly.