

LD7196605

SENATE BILL NO. 500

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 11, 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 \$125,000,000, 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; and further providing that the interest income from such bonds shall be exempt from all taxation within the Commonwealth; and to provide for a funding mechanism to pay, at least in part, the debt service on such bonds by 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, legally available revenues of the Transportation Trust Fund, and (iii) 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, (the Bonds) in an aggregate principal amount not exceeding \$125,000,000, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (including, without limitation, original issue discount). 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 may 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 (i) capacity enhancement improvements to Interstate 66 from the existing interchange with State Route 234 to and including a new interchange to be constructed west of the existing interchange with U.S. Route 15; (ii) improvements to the planned interchange on Interstate 66 at State Route 234 Bypass and to the existing interchanges at U.S. Route 29 and U.S. Route 15; (iii) construction of a new interchange on Interstate 66 west of the existing interchange with U. S. Route 15 with a connection to the existing Antioch Road (State Route 631); (iv) construction of capacity enhancement improvements to U.S. Route 15 from the interchange with Interstate 66 north for approximately 2.7 miles; and (v) to provide for a regional sign, signal and lighting program related to the improvements provided by the Program.

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

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

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

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

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

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

86 § 5. *The Bonds shall be signed on behalf of the Commonwealth by the Commonwealth*
87 *Transportation Commissioner or shall bear his facsimile signature, shall bear the official seal of the*
88 *Board, and shall be attested by the Secretary of the Board. Any interest coupons shall bear a facsimile*
89 *of the signature of the Commonwealth Transportation Commissioner. In the event that the Bonds shall*
90 *bear the facsimile signature of the Commonwealth Transportation Commissioner, the Bonds shall be*
91 *signed by such administrative assistant as the Commonwealth Transportation Commissioner shall*
92 *determine or by any Registrar/Paying Agent that may be designated by the Treasury Board. In case any*
93 *officer, whose signature or a facsimile of whose signature appears on any Bonds or coupons, shall*
94 *cease to be such officer before the delivery of such Bonds, his signature or facsimile signature shall*
95 *nevertheless be valid and sufficient for all purposes as 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 conditions set forth hereinafter in § 15, the Commonwealth Transportation Board*
99 *is hereby authorized to borrow money at such rate or rates through the execution and issuance of notes*
100 *of 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. A. *The Commonwealth Transportation Board is hereby authorized to receive any other funds,*
114 *including federal funds, that may be made available to pay the cost of the projects and to make*
115 *available the same to the payment of the principal of and the interest on the debt authorized hereby and*
116 *to enter into the appropriate agreements to allow for these funds to be paid into the state treasury to*
117 *pay a part of the cost of the projects or to pay the principal of and the interest on such debt.*

118 B. *The Commonwealth Transportation Board is hereby authorized to receive any other funds that*
119 *may be made available to pay the cost of the Project and to dedicate the same to the payment of the*
120 *principal of and the interest on the debt authorized hereby, including funds provided by the Interstate 66*
121 *Economic Development Program Fund, subject to their appropriation by the General Assembly.*

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

§ 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, legally available revenues of the Transportation Trust Fund, and (iii) 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 of 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 \$400,000,000, as certified to the Commonwealth Transportation Board by the Clerk of the Board of Supervisors of Prince William County or other appropriate county official;

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; and

3. Receipt of all state, local, regional and federal permits as may be necessary to undertake construction of the projects.

2.
§ 1. That there shall be collected a contribution of \$1.00 for each paying visitor to any theme park or other tourist-related or recreational facility (hereinafter jointly referred to as "theme park") which was the subject of a state-sponsored economic development effort and which included as a part of such effort, a debt issuance of \$30,000,000 or more for transportation-related improvements. Such contribution shall be collected along with the charge for admission by the operator of any such theme park. All such contributions shall be remitted on an monthly basis to the Department of Taxation and credited by the Comptroller to the Interstate 66 Economic Development Program Fund. Such contribution shall terminate upon the retirement of the bonds issued to finance the cost of transportation-related improvements.

§ 2. Every theme park operator required to collect the contribution shall, on or before the twentieth day of the month following the month in which the contribution is collected, transmit to the Tax Commissioner a report and remit total collections of such contribution for the preceding calendar month, and thereafter a like report and remittance shall be prepared and transmitted to the Tax Commissioner by every theme park operator on or before the twentieth day of each month, for the preceding calendar month. In the case of operators regularly keeping books and accounts on the basis of an annual period which varies fifty-two to fifty-three weeks, the Tax Commissioner may make regulations for reporting consistent with such reporting period. Late remittances shall accrue interest as provided in § 58.1-15.

A report shall be filed by each theme park operator even though the operator is not liable to remit to the Tax Commissioner any contribution for the period covered by the report.

§ 3. The Interstate 66 Economic Development Program Fund shall be maintained in the Department of the Treasury as a special nonreverting fund and shall also include such other funds as may be appropriated by the General Assembly from time to time, and all interest, dividends, and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund.

§ 4. No state or local admissions tax shall be imposed on the visitors to, or on, the theme park operator.

183 § 5. Notwithstanding §§ 1 and 2, a theme park operator may, in lieu of collecting the \$1.00
184 contribution from each paying visitor, make an annual contribution equal to one-half the debt service on
185 any debt issued to finance transportation-related improvements under the circumstances set forth in § 1.
186 The theme park operator's election under this section shall be evidenced by a written agreement,
187 executed by such operator, to make such annual payments over the term of the bonds.
188 **3. That if any part of this act or the application thereof to any person or circumstance is held**
189 **invalid by a court of competent jurisdiction, such holding shall not affect the validity of the**
190 **remainder of the provisions or applications of the act which can be given effect without the invalid**
191 **provision or application, and to this end the provisions of this act are severable.**