

LD4805386

HOUSE BILL NO. 2111

Offered January 23, 1995

A *BILL to establish by compact with the State of Maryland and the District of Columbia the Woodrow Wilson Bridge and Tunnel Compact, which creates the National Capital Region Woodrow Wilson Bridge and Tunnel Authority for the purpose of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River and authorizing the Authority to exercise various powers, including authority to issue revenue bonds and collect tolls.*

Patron—O'Brien

Referred to Committee on Interstate Cooperation

Be it enacted by the General Assembly of Virginia:

§ 1. *The Governor is hereby authorized and directed to execute, on behalf of the Commonwealth of Virginia, a compact with the District of Columbia and the State of Maryland, which compact shall be in a form substantially as it appears in Chapter I of § 2 of this Act*

§ 2. *Preamble; Woodrow Wilson Bridge and Tunnel Compact.*

Whereas, traffic congestion imposes serious economic burdens in the Washington, D.C., metropolitan area, costing commuters an estimated \$1000 each per year; and

Whereas, the average length of commute in the Washington, D.C. metropolitan area is second only to metropolitan New York, demonstrating the severity of traffic congestion; and

Whereas, the Woodrow Wilson Bridge was designed to carry 70,000 vehicles a day, but carries an actual load of 160,000 per day; and

Whereas, the volume of traffic in the metropolitan Washington, D.C. area is expected to increase by more than seventy percent between 1990 and 2020; and

Whereas, the deterioration of the Woodrow Wilson Bridge and the growing population in the metropolitan Washington, D.C. area accounts for a large part of traffic congestion, and identifying alternatives to this vital link in the interstate highway system and the Northeast corridor is critical to addressing the area's traffic congestion; and

Whereas, the Woodrow Wilson Bridge is the only drawbridge on the regional interstate network, the only piece of the Capital Beltway with only six lanes and the only segment with a remaining lifespan of only ten years; and

Whereas, the existing Woodrow Wilson Bridge is the only part of the interstate system owned by the federal government, and while the District of Columbia, Maryland and Virginia maintain and operate the bridge, no entity has ever been granted full and clear responsibility for all aspects of this facility; and

Whereas, continued federal government ownership of the Woodrow Wilson Bridge will impede cohesive regional transportation planning as it relates to identifying alternative solutions for resolving problems of the existing Woodrow Wilson Bridge; and

Whereas, any change in the status of the Woodrow Wilson Bridge must take into account the interest of nearby communities, the commuting public, and other interested groups, as well as the interest of the federal government and state and local governments involved; and

Whereas, in recognition of a need for a limited federal role in the management of this bridge and the growing local interest, the U.S. Secretary of Transportation has recommended a transfer of authority and ownership from the federal to the local/state level, consistent with the management of other bridges elsewhere in the nation; and,

Whereas, a commission comprised of congressional, state, and local officials and transportation representatives has recommended transfer of the Woodrow Wilson Bridge to an independent authority to be created by the State of Maryland, the Commonwealth of Virginia and the District of Columbia; and

Whereas, a coordinated approach without regard to political and legal jurisdictional boundaries, through the cooperation of the State of Maryland, the Commonwealth of Virginia and the District of Columbia by and through a common agency similar to other Washington, D.C. area authorities, is a proper and necessary step looking towards the alleviation of traffic problems related to the inadequacy of the existing Woodrow Wilson Bridge; now, therefore,

The States of Maryland and Virginia and the District of Columbia, hereinafter referred to as signatories, do hereby covenant and agree as follows:

WOODROW WILSON BRIDGE AND TUNNEL COMPACT.**CHAPTER I.****General Compact Provisions.**

INTRODUCED

HB2111

Article I.

There is hereby created the National Capital Region Woodrow Wilson Bridge and Tunnel Authority, hereinafter referred to as the "Authority," which shall embrace the District of Columbia, the Cities of Alexandria, Fairfax, and Falls Church, the Counties of Arlington and Fairfax, and the political subdivisions of the Commonwealth of Virginia located within those counties, and the Counties of Montgomery and Prince Georges in the State of Maryland and the political subdivisions of the State of Maryland located within said counties.

Article II.

The Authority shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia and the State of Maryland, and shall have the powers and duties set forth in this compact and such additional powers and duties as may be conferred upon it by subsequent action of the signatories.

Article III.

1. The Authority shall be governed by a board of thirteen members appointed as follows:

- a. Four members shall be appointed by the Governor of the Commonwealth of Virginia;
- b. Four members shall be appointed by the Governor of the State of Maryland;
- c. Four members shall be appointed by the Mayor of the District of Columbia; and
- d. One member shall be appointed by the U.S. Secretary of Transportation.

2. Members shall have backgrounds in finance, construction lending, and infrastructure policy disciplines. One member from each jurisdiction shall be an incumbent elected official. No other member shall hold elective or appointive public office.

3. No person in the employment of or holding any official relationship to any person or company subject to the jurisdiction of the Authority, or having any interest of any nature in any such person or company or affiliate or associate thereof, shall be eligible for appointment as a member or to serve as an employee of the Authority or to have any power or duty or receive any compensation in relation thereto.

4. The Chairperson of the Authority shall be elected biennially by its members.

5. The members may also biennially elect a secretary and a treasurer, or a secretary-treasurer, who may be members of the Authority, and prescribe their duties and powers.

6. Each member shall serve a six-year term, except that each signatory shall make its initial appointments as follows:

- a. Two members shall each be appointed for a six-year term;
- b. One member shall be appointed for a four-year term; and
- c. One member shall be appointed for a two-year term.

7. The failure of a signatory or the Secretary of Transportation to appoint one or more members shall not impair the Authority's creation when the signatories are in compliance with the other terms of this compact.

8. Any person appointed to fill a vacancy shall serve for the unexpired term. No member of the Authority shall serve for more than two terms.

9. The members of the Authority, including nonvoting members, if any, shall not be personally liable for any act done or action taken in their capacities as members of the Authority, nor shall they be personally liable for any bond, note, or other evidence of indebtedness issued by the Authority.

10. Seven members shall constitute a quorum, with the following exceptions:

a. Eight affirmative votes shall be required to approve bond issues and the annual budget of the Authority.

b. Two affirmative votes by members from the affected signatory shall be required to approve operations or matters solely intrastate or solely within the District of Columbia.

11. Members shall serve without compensation and shall reside in the metropolitan Washington, D.C. area. Members shall be entitled to reimbursement for their expenses incurred in attending the meetings of the Authority and while otherwise engaged in the discharge of their duties as members of the Authority.

12. The Authority may employ such engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis as in its judgment may be necessary for the discharge of its duties. The Authority shall not be bound by any statute or regulation of any signatory in the employment or discharge of any officer or employee of the Authority, except as may be contained in this compact.

13. The Authority shall establish its office for the conduct of its affairs at a location to be determined by the Authority and shall publish rules and regulations governing the conduct of its operations.

Article IV.

Nothing herein shall be construed to amend, alter, or in any wise affect the power of the signatories and the political subdivisions thereof to levy and collect taxes on property or income or upon any material, equipment or supplies purchased by such person or companies or to levy, assess and collect franchise or other similar taxes or fees for the licensing of vehicles and the operation thereof.

Article V

This compact shall be adopted by the signatories in the manner provided by law therefor. This compact shall become effective ninety days after its adoption by the signatories.

Article VI.

1. Any signatory may withdraw from the compact upon one year's written notice to that effect to the other signatories. In the event of a withdrawal of one of the signatories from the compact, the compact shall be terminated.

2. Upon the termination of this compact, the jurisdiction over the matters and persons covered by this compact shall revert to the signatories and the federal government, as their interests may appear.

Article VII.

Each of the signatories pledges to each of the other signatory parties faithful cooperation in the solution and control of transit and traffic problems within the Metropolitan Washington, D.C. area and, in order to effect such purposes, agrees to enact any necessary legislation to achieve the objectives of the compact to the mutual benefit of the citizens living within the Metropolitan Washington, D.C. area and for the advancement of the interests of the signatories hereto.

Article VIII

Within 120 days of the appointment of Authority members, the Authority shall enter into an agreement with the U.S. Secretary of Transportation to transfer to the Authority the ownership of the existing Woodrow Wilson Bridge, and all duties and responsibilities associated therein, subject to the final determination of the percentage of federal share to be allocated to an enhanced Potomac crossing. Upon all parties' acceptance of this transaction the Authority shall have sole responsibility for duties concerning ownership, construction, operation and maintenance of a new crossing for the Potomac River.

Article IX.

1. If any part or provision of this compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact or the application thereof to other persons or circumstances, and the signatories hereby declare that they would have entered into this compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

2. In accordance with the rules for construction of interstate compacts, this compact shall be liberally construed to effectuate the purposes for which it is created.

CHAPTER II.

Woodrow Wilson Bridge and Tunnel Revenue Bond Act.

Article I.

Definitions.

As used in this Act the following words shall have the following meanings:

"Cost," as applied to the project, means the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of lease payments; the cost of construction; the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of any extensions, enlargements, additions and improvements; the cost of all labor, materials, machinery and equipment, financing charges, and interest on all bonds prior to and during construction and, if deemed advisable by the Authority, of such construction; the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility of practicability of constructing the project, administrative expenses, provisions for working capital, and reserves for interest and for extensions, enlargements, additions and improvements; the cost of bond insurance and other devices designed to enhance the creditworthiness of the bonds; and such other expenses as may be necessary or incidental to the construction of the project, the financing of such construction and the planning of the project in operation.

"Owner" includes all persons as defined in § 1-13.19 of the Code of Virginia having any interest or title in and to property, rights, franchises, easements and interests authorized to be acquired by this Act.

"Project" means the existing Woodrow Wilson Bridge and a bridge or tunnel, or a bridge and tunnel project, adjacent to the existing Woodrow Wilson Bridge; administration, storage and other buildings and facilities which the Authority may deem necessary for the operation of such project; and all property, rights, franchises, easements and interests which may be acquired by the Authority for the construction or the operation of such project.

Article II.

Bonds Not to Constitute a Debt or Pledge of Taxing Power.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt or a pledge of the faith and credit of the Authority or of any signatory government or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and other revenues. The issuance of revenue bonds under the provisions of this Act shall not directly or indirectly or contingently obligate the Authority, or any signatory government or political subdivision thereof, to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

Article III.

Additional Powers of the Authority.

Without in any manner limiting or restricting the powers heretofore given to the Authority, the Authority is hereby authorized and empowered:

1. To establish, finance, construct, maintain, repair and operate the project;
2. Subject to approval of the Governors of Maryland and Virginia and the Mayor of the District of Columbia, to assume full rights of ownership of the existing Woodrow Wilson Bridge;
3. To determine the location, character, size and capacity of the project; to establish, limit and control such points of ingress to and egress from the project as may be necessary or desirable in the judgment of the Authority to ensure the proper operation and maintenance of the project; and to prohibit entrance to such project from any point or points not so designated;
4. To secure all necessary federal authorizations, permits and approvals for the construction, maintenance, repair and operation of the project;
5. To adopt and amend bylaws for the regulation of its affairs and the conduct of its business;
6. To adopt and amend rules and regulations to carry out the powers granted by this section;
7. To acquire, by purchase or condemnation, in the name of the Authority; and to hold and dispose of real and personal property for the corporate purposes of the Authority;
8. To acquire full information to enable it to establish, construct, maintain, repair and operate the project;
9. To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction and accounting experts, and inspectors, attorneys, and such other employees as may be deemed necessary, and within the limitations prescribed in this Act, and to prescribe their powers and duties and to fix their compensation;
10. To pay, from any available moneys, the cost of plans, specifications, surveys, estimates of cost and revenues, legal fees and other expenses necessary or incident to determining the feasibility or practicability of financing, constructing, maintaining, repairing and operating the project;
11. To issue revenue bonds of the Authority, for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this Act;
12. To fix and revise from time to time and to charge and collect tolls and other charges for the use of the project;
13. To make and enter into all contracts or agreements, as the Authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this Act;
14. To accept loans and grants of money, or materials or property at any time from the United States of America, the Commonwealth of Virginia, the State of Maryland, the District of Columbia or any agency or instrumentality thereof;
15. To adopt an official seal and alter the same at its pleasure;
16. To sue and be sued, plead and be impleaded, all in the name of the Authority;
17. To exercise any power usually possessed by private corporations performing similar functions, including the right to expend, solely from funds provided under the authority of this Act, such funds as may be considered by the Authority to be advisable or necessary in advertising its facilities and services to the traveling public; and
18. To do all acts and things necessary or incidental to the performance of its duties and the execution of its powers under this Act.

Article IV.

Acquisition of Property.

The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of this Act, such lands, structures, rights-of-way, property, rights, franchises, easements and other interest in lands, including lands lying under water and riparian rights, which are located within the Metropolitan Washington, D.C. area of Title I, as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof; and to take title thereto in the name of the Authority.

All counties, cities, towns and other political subdivisions and all public agencies and authorities of the signatories, notwithstanding any contrary provision of law, are hereby authorized and empowered to

lease, lend, grant or convey to the Authority at the Authority's request, upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or authorities may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the Authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration of public or private property damaged or destroyed.

Article V. Incidental Powers.

The Authority shall have power to construct grade separations at intersections of the project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of the project.

If the Authority shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such location as the Authority shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of the project.

Any public highway affected by the construction of the project may be vacated or relocated by the Authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the project.

In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters and premises in the Commonwealth for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this Act, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities.

The Authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under the project. Whenever the Authority shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under the project should be relocated in the project, or should be removed from the project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Authority, provided that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Authority as a part of the cost of the project. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

The Commonwealth of Virginia hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of the project.

Article VI. Revenue Bonds.

The Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the Authority to pay all or a part of the cost of all or a part of the project.

Article VII. Trust Indenture.

In the discretion of the Authority, any bonds issued under the provisions of this Act may be secured

by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof.

Article VIII.

Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of the project or any public ferry service then being operated by the Authority, and to contract with any person, partnership, association or corporation desiring the use thereof, and to fix the terms, conditions, rents and rates of charges for such use.

Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing and operating such project and (ii) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other authority, board, bureau or agency of the Commonwealth. The tolls and all other revenues derived from the project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

Article IX.

Trust Funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Act. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes thereof, subject to such regulations as this Act and such resolution or trust indenture may provide.

Article X.

Remedies.

Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth of Virginia or granted hereunder or under such trust indenture or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this Act or by such trust indenture or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of tolls.

Article XI.

Tax Exemption.

The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the Commonwealth and for the increase of their commerce and prosperity, and as the operation and maintenance of the project will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom, and the bonds 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 from taxation within the Commonwealth.

Article XII.

Bonds Eligible for Investment.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

Article XIII.

Miscellaneous.

Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. The project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ.

All other police officers of the signatory parties and of each county, city, town or other political subdivision of the Commonwealth through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

All private property damaged or destroyed by the construction of the project or any part thereof shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

On or before the last day of February in each year, the Authority shall make an annual report of its activities for the preceding calendar year to the Governors of Maryland and Virginia and the City Council of the District of Columbia. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the governing bodies of Maryland, Virginia and the District of Columbia and of the political subdivisions constituting the Authority and by any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

Any person who uses the project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than \$100 or by imprisonment for not more than thirty days, or both, and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid.