

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 33.1-23.03:4 of the Code of Virginia, relating to the Toll Facilities Revolving Account of the Transportation Trust Fund.

[H 2314]

Approved

Whereas, the General Assembly finds that:

1. There is a public need for timely acquisition or construction of and improvements to transportation facilities within the Commonwealth; and

2. It is desirable that acquisition of, construction of, and any improvements to such facilities be compatible with both statewide and local transportation plans; and

3. Such public need for transportation facilities cannot be entirely satisfied through existing ways by which transportation facilities are acquired, constructed and improved; and

4. Enabling private entities to acquire, construct, improve, maintain, and/or operate one or more transportation facilities through the loan of or payment of costs from the Toll Facilities Revolving Account of the Transportation Trust Fund will result in the availability of such transportation facilities to the public in a more timely and less costly fashion and constitutes the performance of an essential governmental service contributing to the public safety and welfare; and

Whereas, it is the intent of the General Assembly, through this act and the Public-Private Transportation Act of 1995 among other things, to facilitate, to the greatest extent possible, the pooling, funding, and loan mechanisms of federal law, including without limitation the Intermodal Surface Transportation Efficiency Act of 1991 and any successor legislation, to the end that (i) transportation financing be expanded and accelerated to improve and add to the convenience of the public and (ii) public and private entities may have the greatest possible flexibility in contracting with one another for the provision of the public services herein contemplated; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-23.03:4 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-23.03:4. Toll Facilities Revolving Account.

A. Subject to any obligations to existing bondholders, but notwithstanding §§ 2.1-185 and 58.1-13, funds deposited into the Transportation Trust Fund pursuant to ~~subdivisions~~ *subdivision 4 and 5* of § 33.1-23.03:1 shall be held in a separate subaccount to be designated the "Toll Facilities Revolving Account," *hereinafter referred to as "the Account,"* together with all interest, dividends, and appreciation which accrue to the Transportation Trust Fund and which are not otherwise *specifically directed by law* or reserved by the Board in the resolution authorizing issuance of bonds to finance toll facilities; ~~to be used~~ . *In addition, any funds received from the federal government or any agency or instrumentality thereof that, pursuant to federal law, may be made available, as loans or otherwise, to private persons or entities for transportation purposes, hereinafter referred to as "federal funds," shall be deposited in a segregated subaccount within the Account. Payments received with respect to any loan made from such segregated subaccount pursuant to subdivision 2 of subsection B of this section shall also be deposited into such segregated subaccount in the Account.*

B. The Board may make allocations upon such terms and subject to such conditions as the Board deems appropriate, from the following funds for the following purposes:

1. From any funds in the Account to pay or finance all or part of the costs, including the cost of planning, operation, maintenance, and improvements incurred in connection with the acquisition and construction of projects financed in whole or in part as toll facilities or to refinance existing ~~bonds issued to finance~~ toll facilities, *provided that any such funds allocated from the Account for a planned or operating toll facility shall be considered as an advance of funding for which the Account shall be reimbursed;*

2. From funds in the segregated subaccount in the Account into which federal funds are deposited in conjunction with the Public-Private Transportation Act of 1995 and pursuant to the terms of a comprehensive agreement between a responsible public entity and a private operator as provided for in that Act:

a. To make a loan to such operator to pay any cost of a qualifying transportation facility, provided that: (i) the operator's return on its investment is limited to a reasonable rate and (ii) such loan is limited to a reasonable term; or

b. To pay the Commonwealth's or its agency's portion of costs incurred or to be incurred in accordance with a comprehensive agreement with respect to a transportation facility.

57 All definitions of terms shall be as provided in the Public-Private Transportation Act of 1995; and
58 3. From any funds in the Account, to pay the Board's reasonable costs and expenses incurred in (i)
59 the administration and management of the Account, (ii) its program of financing or refinancing costs of
60 toll facilities, and (iii) the making of loans and paying of costs described in subdivisions 1 and 2 of this
61 subsection.

62 C. The Board may transfer from the Toll Facilities Revolving Account to the Transportation Trust
63 Fund for allocation pursuant to § 33.1-23.1 B any interest revenues and, subject to applicable federal
64 limitations, federal funds not committed by the Board to the purposes intended provided for in
65 subsection B of this section.

66 D. The provisions of this section shall be liberally construed to the end that its beneficial purposes
67 may be effectuated. Insofar as this provision is inconsistent with the provisions of any other general,
68 special, or local law, this provision shall be controlling.

69 E. If any provision of this section or the application thereof to any person or circumstances is held
70 invalid by a court of competent jurisdiction, invalidity shall not affect other provisions or applications of
71 this section that can be given effect without the invalid provision or application, and to this end the
72 provisions of this section are declared to be severable.

73 2. That the provisions of this act shall not become effective unless and until the Public-Private
74 Transportation Act of 1995 becomes effective.