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HOUSE BILL NO. 1501

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 10, 1996)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 56-542 and 56-543, as it is currently effective and as it may become effective, of the Code of Virginia, relating to the Virginia Highway Corporation Act of 1988.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-542 and 56-543, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 56-542. Powers of the Commission.

The Commission shall have the power to regulate the operator under this title as a public service corporation. The Commission shall also have the power, and be charged with the duties of reviewing and approving or denying the application, of supervising and controlling the operator in the performance of its duties under this chapter and title, and of correcting any abuse in the performance of the operator's public duties. The Commission shall have the power to approve a transfer of jurisdiction over an operator in accordance with the provisions of subsection C of § 56-543. Pursuant to § 56-36, the Commission shall require from the operator a verified report describing the nature of its contractual and other relationships with individuals or entities contracting with the operator for the provision of significant financial, construction, or maintenance services. The Commission shall review the report and such other materials as it shall deem necessary for the purpose of determining improper or excessive costs, and shall exclude from the operator's costs any amounts which it finds are improper or excessive. The Commission also shall have the duty and authority to approve or revise the toll rates charged by the operator. Initial rates shall be approved if they appear reasonable to the user in relation to the benefit obtained, not likely to materially discourage use of the roadway and provide the operator no more than a reasonable rate of return as determined by the Commission. Thereafter, the Commission, upon application, complaint or its own initiative, and after investigation, may order substituted for any toll being charged by the operator, a toll which is set at a level which is reasonable to the user in relation to the benefit obtained and which will not materially discourage use of the roadway by the public and which will provide the operator no more than a reasonable return as determined by the Commission. The Commission may charge a reasonable annual fee to cover the costs of supervision and controlling the operator in the performance of its duties under this chapter and pursuant to this section.

§ 56-543. (Effective until July 1, 1998) Powers and duties of roadway operator.

A. The operator shall have all power allowed by law generally to persons having the same form of organization as the operator, including, without limitation, the authority to operate the roadway and charge tolls for the use thereof, and may pledge any revenue net of operational expenses realized from tolls charged for the use of the roadway in order to secure repayment of any obligations incurred for the construction, enlargement or operation of such roadway. Any financing of the acquisition, construction, enlargement, or operation of the roadway may be in such amounts and upon such terms and conditions as may be deemed necessary or appropriate by the operator to provide for the acquisition, construction, enlargement, and operation of the roadway, issuance costs, other financing obligations, and reasonable reserves. Assumption of operation of the project shall not obligate the Commonwealth to pay any obligation of the operator whether secured or otherwise, from sources other than toll revenue nor shall the Commonwealth expend any Commonwealth Transportation funds or federally apportioned, obligated, and designated for Virginia, guarantee any financing, or expend federal transportation funds designated for the Commonwealth of Virginia on obligations or on the operation of a facility authorized under this section which is subsequently governed under the Public-Private Transportation Act of 1995. Subject to applicable permit requirements, the operator shall have the authority to cross any canal or navigable watercourse so long as the crossing does not unreasonably interfere with navigation and use of the roadway. In operating the roadway, the operator may:

1. Classify traffic according to reasonable categories for assessment of tolls; and

2. With the consent of the Department, make and enforce reasonable regulations, including regulations:

a. Which set maximum and minimum speeds that shall conform to Department and state practices;

b. Which exclude undesirable vehicles or cargoes or materials from the use of the roadway; or

c. Which establish commuter lanes for use during all or any part of a day and limit the use of such lanes to certain traffic.

3. The enumeration of powers in this subsection shall not limit the power of the operator to do anything it deems necessary and appropriate in the operation of the roadway, provided that the practice

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60 is reasonable and nondiscriminatory. The powers granted to the operator in this subsection shall not be
61 deemed to limit the authority of the Commission to regulate the operator under this title.

62 B. The operator shall have the following duties:

63 1. It shall file and maintain at all times with the Commission an accurate schedule of rates charged
64 to the public for use of all or any portion of the roadway and it shall also file and maintain a statement
65 that such rates will apply uniformly to all users within any such reasonable classification as the operator
66 may elect to implement. These rates shall be neither applied nor collected in a discriminatory fashion,
67 and free vehicular passage shall be permitted to those persons referred to in subsection A of § 33.1-252.

68 2. It shall construct and maintain the roadway for anticipated use according to appropriate standards
69 of the Department for public highways operated and maintained by the Department, and enlarge or
70 expand the road when unsatisfied demand for use of the roadway makes it economically feasible to do
71 so. The operator shall agree with the Department for inspection of construction work by the Department
72 at appropriate times during any construction or enlargement. In addition, it shall cooperate fully with the
73 Department in establishing any interconnection with the roadway that the Department may make.

74 3. It shall contract with the Commonwealth for enforcement of the traffic and public safety laws by
75 state authorities, and may similarly contract with appropriate local authorities for those portions of the
76 roadway within the local jurisdiction.

77 *C. A responsible public entity is authorized to execute a comprehensive agreement provided that such*
78 *agreement complies with the Public-Private Transportation Act of 1995 (§ 56-556 et seq.). The costs of*
79 *such comprehensive agreement incurred by the responsible public entity shall be borne by the operator.*
80 *The responsible public entity shall not forgive or defer payment of any debts or obligations owed it*
81 *under a comprehensive agreement entered into in accordance with the Virginia Highway Corporation*
82 *Act of 1988. If an operator enters into a comprehensive agreement governed by the Public-Private*
83 *Transportation Act of 1995 (§ 56-556 et seq.), jurisdiction over such operator may be transferred to the*
84 *responsible public entity as defined in such act. Such action may be accomplished upon application to*
85 *and acceptance by the Commission from which a certificate of authority was granted. Upon approval,*
86 *the certificate of authority granted under this Act shall be terminated by the Commission.*

87 § 56-543 (Effective July 1, 1998) Powers and duties of roadway operator.

88 A. The operator shall have all power allowed by law generally to persons having the same form of
89 organization as the operator, including, without limitation, the authority to operate the roadway and
90 charge tolls for the use thereof, and may pledge any revenue net of operational expenses realized from
91 tolls charged for the use of the roadway in order to secure repayment of any obligations incurred for the
92 construction, enlargement or operation of such roadway. Any financing of the acquisition, construction,
93 enlargement, or operation of the roadway may be in such amounts and upon such terms and conditions
94 as may be deemed necessary or appropriate by the operator to provide for the acquisition, construction,
95 enlargement, and operation of the roadway, issuance costs, other financing obligations, and reasonable
96 reserves. The Commonwealth shall not obligate its full faith and credit on any financing of the operator.
97 Assumption of operation of the project shall not obligate the Commonwealth to pay any obligation of
98 the operator whether secured or otherwise, from sources other than toll revenue *nor shall the*
99 *Commonwealth expend any Commonwealth Transportation funds or federally apportioned, obligated,*
100 *and designated for Virginia, guarantee any financing, or expend federal transportation funds designated*
101 *for the Commonwealth of Virginia on obligations or on the operation of a facility authorized under this*
102 *section which is subsequently governed under the Public-Private Transportation Act of 1995. Subject to*
103 *applicable permit requirements, the operator shall have the authority to cross any canal or navigable*
104 *watercourse so long as the crossing does not unreasonably interfere with navigation and use of the*
105 *waterway. In operating the roadway, the operator may:*

106 1. Classify traffic according to reasonable categories for assessment of tolls; and

107 2. With the consent of the Department, make and enforce reasonable regulations, including
108 regulations:

109 a. Which set maximum and minimum speeds that shall conform to Department and state practices;

110 b. Which exclude undesirable vehicles or cargoes or materials from the use of the roadway; or

111 c. Which establish commuter lanes for use during all or any part of a day and limit the use of such
112 lanes to certain traffic.

113 3. The enumeration of powers in this subsection shall not limit the power of the operator to do
114 anything it deems necessary and appropriate in the operation of the roadway, provided that the practice
115 is reasonable and nondiscriminatory. The powers granted to the operator in this subsection shall not be
116 deemed to limit the authority of the Commission to regulate the operator under this title.

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134 *such comprehensive agreement incurred by the responsible public entity shall be borne by the operator.*
135 *The responsible public entity shall not forgive or defer payment of any debts or obligations owed it*
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137 *Act of 1988. If an operator enters into a comprehensive agreement governed by the Public-Private*
138 *Transportation Act of 1995 (§ 56-556 et. seq.), jurisdiction over such operator may be transferred to the*
139 *responsible public entity as defined in such act. Such action may be accomplished upon application to*
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141 *the certificate of authority granted under this Act shall be terminated by the Commission.*