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HOUSE BILL NO. 2492

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 1, 1997)

(Patron Prior to Substitute—Delegate Robinson)

A BILL to amend and reenact § 33.1-23.03:4 of the Code of Virginia, relating to toll facilities revolving accounts.

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 subdivision 4 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. 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.

A1. User fees collected in excess of the annual debt service, operations and maintenance expenses, and necessary administrative costs for qualifying facilities with respect to which an agency of the Commonwealth is the Responsible Public Entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) shall be deposited and held in the "Regional Toll Facilities Revolving Subaccount," hereinafter referred to as the "Regional Account," together with all interest, dividends and appreciation for use within the metropolitan planning organization region within which the facility exists.

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, *exclusive of those in the Regional 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 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 (§ 56-556 et seq.) 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.

All definitions of terms shall be as provided in the Public-Private Transportation Act of 1995; and

3. From funds in the Regional Account:

a. 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 toll facilities, provided that (i) allocations from the Regional Account shall be limited to projects located within the same metropolitan planning organization region as the facility which generated the excess revenue and (ii) any such funds allocated from the Regional Account for a planned or operating toll facility shall be considered as an advance of funding for which the Regional Account shall be reimbursed; or

b. To pay the Commonwealth's, its agency's, or political subdivision's costs incurred or to be incurred in accordance with a comprehensive agreement with respect to a transportation facility within the same metropolitan planning organization region as the facility which generated the excess revenue. All definitions of terms shall be as provided in the Public-Private Transportation Act of 1995; and

4. From any funds in the Account, to pay the Board's reasonable costs and expenses incurred in (i)

60 the administration and management of the Account, (ii) its program of financing or refinancing costs of
61 toll facilities, and (iii) the making of loans and paying of costs described in subdivisions 1 and 2 of this
62 subsection.

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