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SENATE BILL NO. 562

Offered January 26, 1998

A BILL to amend and reenact §§ 33.1-23.03:2, 33.1-46.1, 58.1-638, and 58.1-2425 of the Code of Virginia, relating to the Transportation Trust Fund, the Commonwealth Mass Transit Fund, and highway aid to mass transit.

Patrons—Walker, Lucas and Miller, Y.B.; Delegates: Moss and Williams

Referred to the Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:2, 33.1-46.1, 58.1-638, and 58.1-2425 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-23.03:2. Commonwealth Port Fund, Commonwealth Airport Fund and Commonwealth Mass Transit Fund.

Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 8.4 percent shall be set aside as the Commonwealth Mass Transit Fund. The remaining ~~eighty-five~~ 77.7 percent of the funds deposited into or held in the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

§ 33.1-46.1. Highway aid to mass transit.

In allocating highway funds ~~in urban corridors~~ the Commonwealth Transportation Board may use such funds for highway aid to mass transit facilities when such use will best accomplish the purpose of serving the transportation needs of the greatest number of people.

Highway aid to mass transit may be accomplished (i) *by using highway funds to aid in paying transit operating costs borne by localities and/or* (ii) by acquisition or construction of transit-related highway facilities such as exclusive bus lanes, bus turn-outs, bus passenger shelters, fringe parking facilities, including necessary access roads, to promote transit use and relieve highway congestion, off-street parking facilities to permit exclusive use of curb lane by buses, and by permitting mass transit facilities to occupy highway median strips without the reimbursement required by § 33.1-97, all to the end that highway traffic may be relieved through the development of more efficient mass transit.

Expenditures of funds under the authority of this section shall be made from funds available for the construction of state highways within the construction district in which the transit facilities are wholly or partly located.

The Board may at its discretion contract with the governing bodies comprising a transportation district, or in its discretion, other local governing bodies, for the accomplishment of a project to which funds have been allocated under the provisions of this section. Whenever such projects are being financed by advance annual allocation of funds, the Board may make such funds available to the contracting governing bodies in annual increments which may be used for other transit purposes until needed for the project for which allocated; however, the Board may require bond or other satisfactory assurance of final completion of the contract.

The Board may also, at the request of local governing bodies, use funds allocated for urban highways or secondary roads within their jurisdiction ~~to aid the transportation district of which it is a unit in the purchase of buses and ancillary facilities for public transit systems or to aid local governing bodies in the purchase of equipment and facilities to be used in public mass transit; however, the Board shall make no allocation of such funds to a governing body which has withdrawn from a transportation district of which it was a member for a period of three years after such withdrawal has taken place to accomplish the purposes of this section.~~

The General Assembly may, through the general appropriations act, (i) provide for limits on the amounts or purposes of allocations made under this section; and (ii) provide for the transfer of allocations from one eligible recipient to another.

§ 58.1-638. Disposition of state sales and use tax revenue; localities' share.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted

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SB562

60 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
61 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
62 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
63 Fund as hereinafter provided; an aggregate of 2.4 percent shall be set aside as the Commonwealth
64 Airport Fund as hereinafter provided; and an aggregate of ~~8.4~~ 15.7 percent shall be set aside as the
65 Commonwealth Mass Transit Fund as hereinafter provided. The Fund's share of such net revenue shall
66 be computed as an estimate of the net revenue to be received into the state treasury each month, and
67 such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All
68 payments shall be made to the Fund on the last day of each month.

69 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
70 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

71 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds
72 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
73 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be
74 paid to any authority, locality or commission for the purposes hereinafter specified.

75 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth
76 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to
77 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary
78 ports within the Commonwealth.

79 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the
80 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
81 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

82 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
83 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
84 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
85 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
86 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
87 allocated by the Commonwealth Transportation Fund to the Virginia Aviation Board. The funds shall be
88 allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth,
89 a governmental subdivision thereof, or a private entity to which the public has access for the purposes
90 enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority
91 (MWAA), as follows:

92 From July 1, 1995, through June 30, 2000, any new funds in excess of \$12.1 million which are
93 available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund,
94 shall be allocated as follows: sixty percent to MWAA, up to a maximum annual amount of two million
95 dollars, and forty percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments
96 due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive
97 less funds identified under subdivision A 3 a than it received in fiscal year 1994-95.

98 Of the remaining amount:

99 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
100 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
101 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
102 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

103 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
104 airports on a discretionary basis, except airports owned or leased by MWAA.

105 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
106 on a discretionary basis.

107 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
108 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
109 Transit Fund.

110 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
111 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
112 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
113 paid to any local governing body, transportation district commission, or public service corporation for
114 the purposes hereinafter specified.

115 b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent
116 of the public transportation administrative costs and up to eighty percent of the costs of ridesharing
117 programs borne by the locality. These amounts may be used to support up to ninety-five percent of the
118 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
119 facilities, and associated costs. Capital costs may include debt service payments on local or agency
120 transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the
121 costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies

for public transportation. The term "borne by the locality" shall mean the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) *Funds to support the administrative and operating expenses of the Department of Rail and Public Transportation.*

(2) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund *remaining after deducting payments for support of the expenses of the Department of Rail and Public Transportation.*

(2 3) The Board may allocate these funds to any locality or planning district commission to finance up to eighty percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

(3 4) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of Rail and Public Transportation for the following purposes:

(a) To finance up to ninety-five percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to ninety-five percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

(c) To finance up to ninety-five percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

d. Funds allocated for public transportation promotion and operation studies may be paid to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(1) At the approval of the Board to finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(2) To finance up to fifty percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund *remaining after deducting payments for support of the expenses of the Department of Rail and Public Transportation* shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

f. The ~~remaining twenty-five percent balance of the Fund~~ shall be distributed for capital purposes on the basis of ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs for nonfederal projects. In the event that total capital funds available under this paragraph are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local payments of WMATA rail transit bonds shall be paid first and apportioned to each locality using the WMATA capital formula.

b. The remaining funds shall be apportioned by calculating twenty-five percent of the capital and operating costs and seventy-five percent of the capital and operating subsidies applied to each locality. Capital costs may include twenty percent of annual local bus capital expenses.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of this Commonwealth in the manner hereafter in this section provided.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each

183 such month.

184 D. The net revenue so distributable among the counties and cities shall be apportioned and
185 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
186 of children in each county and city according to the most recent statewide census of school population
187 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
188 provided. No special school population census, other than a statewide census, shall be used as the basis
189 of apportionment and distribution except that in any calendar year in which a statewide census is not
190 reported, the Department of Education shall adjust such school population figures by the same percent of
191 annual change in total population estimated for each locality by The Center for Public Service. The
192 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
193 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
194 operation of the public schools, which shall be considered as funds raised from local resources. In any
195 county, however, wherein is situated any incorporated town constituting a school division, the county
196 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
197 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
198 amount received by him in the ratio that the school population of such town bears to the school
199 population of the entire county. If the school population of any city or of any town constituting a school
200 division is increased by the annexation of territory since the last preceding school population census,
201 such increase shall, for the purposes of this section, be added to the school population of such city or
202 town as shown by the last such census and a proper reduction made in the school population of the
203 county or counties from which the annexed territory was acquired.

204 E. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
205 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

206 F. The term "net revenue," as used in this section, means the gross revenue received into the general
207 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
208 less refunds to taxpayers.

209 § 58.1-2425. Disposition of revenues.

210 A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
211 Except as otherwise provided in this section, these funds shall constitute special funds within the
212 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
213 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
214 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
215 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
216 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
217 provisions of this chapter from mobile homes, as defined in § 46.2-100, shall be distributed to the city,
218 town, or county wherein such mobile home is to be situated as a dwelling, (ii) all funds collected from
219 the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental vehicles shall
220 be distributed quarterly to the city, town, or county wherein such vehicle was delivered to the rentee,
221 and (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by
222 enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694,
223 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation
224 Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated
225 to the Commonwealth Transportation Board for transportation needs, and (iv) except as otherwise
226 provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from
227 the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in
228 effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be set
229 aside in a special fund within the Commonwealth Transportation Fund to be used to meet the expenses
230 of the Department of Motor Vehicles.

231 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
232 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be
233 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
234 Commonwealth Airport Fund; and an aggregate of ~~8.4~~ 15.7 percent shall be set aside as the
235 Commonwealth Mass Transit Fund.