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HOUSE BILL NO. 2239

Offered January 21, 1999

A BILL to amend and reenact § 33.1-269 of the Code of Virginia and to authorize the issuance of Commonwealth of Virginia Mass Transit Bonds, by and with the consent of the Governor pursuant to the provisions of Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1 of the Code of Virginia and as permitted by Section 9 (d) of Article X of the Constitution of Virginia, in a principal amount not exceeding \$59,000,000 to finance the cost of the projects for the improvement of mass transit in the Commonwealth, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses, for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs incurred or to be incurred for the projects to improve mass transit in the Commonwealth; authorize the Commonwealth Transportation Board to fix the details of such bonds and to provide for the sale of such bonds at public or private sale; provide for the pledge of revenues under a payment agreement with the Treasury Board first from revenues deposited into the Commonwealth Mass Transit Fund pursuant to §§ 33.1-23.03:2 and 33.1-46.1 and then from such other funds which may be appropriated by the General Assembly; and provide that the interest income from such bonds shall be exempt from all taxation within the Commonwealth, relating to revenue bonds for transportation needs.

 Patron—Rollison

Referred to Committee on Appropriations

Whereas, Section 9 (d) of Article X of the Constitution of Virginia and §§ 33.1-267 through 33.1-295 of the Code of Virginia provide that the General Assembly may authorize the issuance of bonds secured by Transportation Trust Fund revenues under a payment agreement between the Commonwealth Transportation Board and the Treasury Board, subject to appropriations by the General Assembly and payable first from revenues deposited into the Commonwealth Mass Transit Fund pursuant to §§ 33.1-23.03:2 and 33.1-46.1 and then from such other funds which may be appropriated by the General Assembly; and

Whereas, the projects described herein will be operated and maintained by the Commonwealth Transportation Board; now, therefore,

Be it enacted by the General Assembly of Virginia:**1. That § 33.1-269 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii)

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60 to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as
61 provided by law, to the highway construction district in which the project or projects to be financed are
62 located or to the city or county in which the project or projects to be financed are located, (iii) to the
63 extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds
64 which may be appropriated by the General Assembly;

65 4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
66 Virginia Transportation Program Revenue Bonds," secured, subject to their appropriation by the General
67 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General
68 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any
69 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for
70 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent
71 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by
72 law, to the highway construction district in which the project or projects to be financed are located or to
73 the city or county in which the project or projects to be financed are located, (iv) to the extent required,
74 legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be
75 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
76 authority of this subsection unless such project or projects are specifically included in a bill or resolution
77 passed by the General Assembly;

78 4c. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of*
79 *Virginia Mass Transit Bonds," secured, subject to their appropriation by the General Assembly, first*
80 *from amounts deposited in the Commonwealth Mass Transit Fund and then from such other funds which*
81 *may be appropriated by the General Assembly;*

82 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such
83 projects;

84 6. Construct grade separations at intersections of any projects with public highways, streets or other
85 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
86 same to the design of such grade separations, the cost of such grade separations and any damage
87 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
88 ascertained and paid by the Board as a part of the cost of the project;

89 7. Vacate or change the location of any portion of any public highway, street or other public way or
90 place and reconstruct the same at such new location as the Board deems most favorable for the project
91 and of substantially the same type and in as good condition as the original highway, streets, way or
92 place, the cost of such reconstruction and any damage incurred in vacating or changing the location
93 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,
94 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the
95 manner provided by law for the vacation or relocation of public roads and any damages awarded on
96 account thereof may be paid by the Board as a part of the cost of the project;

97 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and
98 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and
99 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,
100 or other political subdivision, public utility or public service corporation owning or operating the same
101 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any
102 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,
103 county, political subdivision, public utility or public service corporation shall relocate or remove the
104 same in accordance with the order of the Board. The cost and expense of such relocation or removal,
105 including the cost of installing such public utility facilities in a new location or locations, and the cost
106 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such
107 relocation or removal shall be ascertained by the Board.

108 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of
109 the cost of the project for those public utility facilities owned or operated by the Commonwealth or such
110 municipality, county, political subdivision, public utility or public service corporation. On all other
111 projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part
112 of the cost of the project for those public utility facilities owned or operated by the Commonwealth or
113 such municipality, county, or political subdivision. The Commonwealth or such municipality, county,
114 political subdivision, public utility or public service corporation may maintain and operate such public
115 utility facilities with the necessary appurtenances, in the new location or locations, for as long a period
116 and upon the same terms and conditions as it had the right to maintain and operate such public utility
117 facilities in their former location or locations;

118 9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way,
119 franchises, easements and other property, including public lands, parks, playgrounds, reservations,
120 highways or parkways, or parts thereof or rights therein, of any municipality, county or other political
121 subdivision, deemed necessary or convenient for the construction or the efficient operation of the project

or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article; and

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia.

2. *§ 1. This act shall be known and may be cited as the "Commonwealth of Virginia Mass Transit Bond Act of 1999."*

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Mass Transit Bonds, Series" (the "bonds"), in an aggregate principal amount not exceeding \$59,000,000 to finance the cost of the projects plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses. The proceeds of the bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects to improve mass transit in the Commonwealth, consisting of environmental and engineering studies, rights-of-way acquisition, acquisition of personal property essential to enhanced mass transit, improvements to all modes of transportation, construction and related improvements (the "project"). Such costs may include the payment of interest on the bonds for the period during construction and not exceeding one year after completion of construction of the projects.

The bonds shall be issued by the Commonwealth Transportation Board and sold through the Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth Transportation Board with respect to the bonds. The Treasury Board's duties shall include the approval of the terms and structure of the bonds.

§ 3. The proceeds of the bonds herein authorized shall be made available by the Commonwealth Transportation Board to pay the costs of the project and, where appropriate, may be paid to any authority, locality or commission for the purposes of paying for the costs of the project. The proceeds of the bonds may be used with any federal, local or private funds which may be made available for said purpose.

§ 4. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding thirty years from their date or dates, as may be determined by the Commonwealth Transportation Board, and may be made redeemable before their maturity or maturities, at such price or prices and under such terms and conditions as may be fixed by the Commonwealth Transportation Board prior to the issuance of the bonds. The principal of and the interest on the bonds shall be made payable in lawful money of the United States of America. The Commonwealth Transportation Board shall determine the form of the bonds and fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest thereof, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth.

All bonds issued under the provisions of this act shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of, and premium, if any, and interest on the bonds.

The bonds may be sold at a public or private sale for such price or prices as the Commonwealth Transportation Board may determine to be in the best interests of the Commonwealth.

§ 5. The bonds shall be signed on behalf of the Commonwealth by the Commonwealth Transportation Commissioner or bear his facsimile signature, and shall bear the official seal of the Commonwealth Transportation Board and be attested by the Secretary of such Board. Any interest coupons shall bear a facsimile of the signature of the Commonwealth Transportation Commissioner. In the event that the bonds shall bear the facsimile signature of the Commissioner, the bonds shall be signed by such administrative assistant as the Commonwealth Transportation Commissioner shall determine or by any Registrar/Paying Agent that may be designated by the Treasury Board. In case any officer, whose signature, or facsimile signature, appears on any bonds or coupons, ceases to be such officer before the delivery of such bonds, his signature, or facsimile signature, shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery.

183 § 6. All expenses incurred under this act shall be paid from the proceeds of the bonds or from any
184 available funds as the Commonwealth Transportation Board shall determine.

185 § 7. The Commonwealth Transportation Board is hereby authorized to borrow money through the
186 execution and issuance of notes of the Commonwealth for the same, but only in the following
187 circumstances and under the following conditions:

188 1. In anticipation of the sale of the bonds the issuance of which shall have been authorized by the
189 Commonwealth Transportation Board and approved by the Governor, if the Commonwealth
190 Transportation Board shall deem it advisable to postpone the issuance of the bonds.

191 2. For the renewal of any loan evidenced by notes herein authorized.

192 § 8. The proceeds of the bonds and of the bond anticipation notes herein authorized (except the
193 proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes) shall be
194 placed by the State Treasurer in a special fund in the state treasury, or with his concurrence may be
195 placed in accordance with § 33.1-283, and shall be disbursed only for the purpose for which such bonds
196 and such bond anticipation notes shall be issued; however, proceeds derived from the sale of bonds or
197 renewal herein authorized shall be first used in the payment of any bond anticipation notes that may
198 have been issued in anticipation of the sale of such bonds and any renewals of such notes.

199 § 9. The Commonwealth Transportation Board is hereby authorized to receive any other funds that
200 may be made available to pay the cost of the project and to make available such funds for the payment
201 of the principal of and interest on the debt authorized hereby and to enter into the appropriate
202 agreements to allow for those funds to be paid into the state treasury to pay a part of the cost of the
203 project or to pay the principal of and the interest on such debt.

204 § 10. The Commonwealth Transportation Board, prior to the issuance of the bonds, may establish a
205 minimum reserve fund requirement for the bonds.

206 § 11. The Commonwealth Transportation Board, prior to the issuance of the bonds, shall establish a
207 sinking fund for the payment of the bonds to the credit of which fund there shall be deposited such
208 amounts as are required to pay debt service on the bonds when due and payable for such fiscal years
209 first from revenues deposited into the Commonwealth Mass Transit Fund pursuant to §§ 33.1-23.03:2
210 and 33.1-46.1 and then from such other funds which may be appropriated by the General Assembly.

211 § 12. Bond proceeds and moneys in any reserve funds and sinking funds shall be invested by the
212 State Treasurer in accordance with the provisions of general law relating to the investment of such
213 funds belonging to or in the control of the Commonwealth, or with the State Treasurer's concurrence by
214 a trustee in accordance with § 33.1-283.

215 § 13. The interest income from, but not any profit made on the sale of the bonds, notes and coupons,
216 if any, issued under the provisions of this act, shall at all times be free and exempt from taxation by the
217 Commonwealth and by any municipality, county or other political subdivision thereof.

218 § 14. All bonds and notes issued under the provisions of this act are hereby made securities in which
219 all public officers and bodies of the Commonwealth; all counties, cities, towns and municipal
220 subdivisions; all insurance companies and associations; all savings banks and savings institutions,
221 including savings and loan associations; administrators; guardians; executors; trustees; and other
222 fiduciaries in the Commonwealth may properly and legally invest funds under their control.

223 3. That if any part of this act or the application thereof to any person or circumstance is held
224 invalid by a court of competent jurisdiction, such holding shall not affect the validity of the
225 remainder of the provisions or applications of the act which can be given effect without the invalid
226 provision or application, and to this end the provisions of this act are severable.