

1999 SESSION

HOUSE SUBSTITUTE

992687202

HOUSE BILL NO. 2493

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 3, 1999)

(Patron Prior to Substitute—Delegate Deeds)

A Bill authorizing the issuance of Commonwealth of Virginia Open Space Bonds in an amount not exceeding \$111,410,000 for the purpose of providing funds for paying, together with any other available funds, for the financing the acquisition of interests in land for parks and open spaces, state parks, natural areas, sites of historic significance and for the preservation of farmland and forests; authorizing the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds and to provide for their sale at public or private sale; authorizing the Treasury Board, by and with the consent of the Governor, to borrow money in anticipation of the issuance of the bonds; authorizing the issuance of refunding bonds, by and with the consent of the Governor; providing for the pledge of the full faith and credit of the Commonwealth for the payment of the principal of and interest on the bonds and any bond anticipation notes or refunding bonds; providing that the bonds shall be exempt from all taxation by the Commonwealth and any political subdivision thereof; and providing that this act shall not become effective and that no bonds shall be issued hereunder unless this act is approved by a majority of the qualified voters of the Commonwealth voting thereon at an election, as required by Article X, Section 9 (b) of the Constitution of Virginia.

Be it enacted by the General Assembly of Virginia:

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

§ 2. *Subject to a favorable vote of a majority of the qualified voters voting on this act at the November 2, 1999, general election as hereinafter provided, the Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Open Space Bonds, Series...", in an aggregate principal amount not exceeding \$111,410,000. The proceeds of the bonds, excluding amounts needed to pay issuance costs and other financing expenses, shall be used as provided in § 6 hereof, without limitation, for financing the acquisition of interests in land and for open space, state parks, natural resources, and sites of historic significance and for the preservation of farmland and forests, as follows:*

<i>Project</i>	<i>1998-2000</i>
<i>Acquisition of land</i>	
<i>for natural area preserves</i>	<i>\$19,910,000</i>
<i>Acquisition of land</i>	
<i>for state parks</i>	<i>\$16,500,000</i>
<i>Acquisition of land</i>	
<i>for state forests</i>	<i>\$10,000,000</i>
<i>Acquisition of land</i>	
<i>for historic sites</i>	<i>\$15,000,000</i>
<i>Acquisition of land</i>	
<i>for farmland preservation</i>	<i>\$50,000,000</i>
<i>—</i>	
<i>Project Total</i>	<i>\$111,410,000</i>

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58 The General Assembly hereby finds and determines that the estimated useful life of the facilities
59 listed above is in excess of twenty-one years.

60 Upon the request of the Director of the Department of Conservation and Recreation, the Governor or
61 the Governor's designee may increase or decrease the allocation to any project within the total amount
62 allocated to the projects listed above. To the extent that the cost of any project is less than the amount
63 allocated to such project, the Governor or the Governor's designee may increase the amount allocated
64 to any other project included herein. No allocation to a project may be increased until it has been
65 demonstrated, to the satisfaction of the Governor or the Governor's designee, that (i) the cost of the
66 project has been reduced to the extent reasonable, (ii) the project has not been expanded or enhanced
67 beyond that originally approved, and (iii) the project is suitable and adequate for the scope originally
68 intended. No increase in the amount allocated to any project shall constitute authorization for the
69 issuance of bonds in an amount in excess of the aggregate authorized hereunder.

70 § 3. The bonds shall be dated, shall mature at such time or times not exceeding twenty-one years
71 from their date or dates and may be made redeemable before their maturity or maturities at such price
72 or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor.
73 The bonds shall be in such form; shall bear interest at a rate or rates, either at fixed rates or at rates
74 established by formula or other method; and may contain such other provisions, all as determined by
75 the Treasury Board or the State Treasurer, when authorized by the Treasury Board. The principal of,
76 premium, if any, and interest on the bonds shall be payable in lawful money of the United States of
77 America. The Treasury Board shall fix the denomination or denominations of the bonds and the place or
78 places for payment of the principal, premium, if any, and interest, which may be at the office of the
79 State Treasurer or at any one or more banks or trust companies within or without the Commonwealth.

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

82 The Treasury Board may sell the bonds in such manner, either at public or private sale, and for
83 such price as it may determine, by and with the consent of the Governor, to be in the best interests of
84 the Commonwealth.

85 The "Commonwealth of Virginia Open Space Bonds, Series..." authorized hereby may be issued at
86 one time or in part from time to time or may, in the discretion of the Treasury Board, be issued and
87 sold at the same time with any general obligation bonds of the Commonwealth authorized pursuant to
88 Article X, Section 9 (a)(3), (b), or (c) of the Constitution of Virginia, to be designated "Commonwealth
89 of Virginia General Obligation Bonds, Series...", either as separate issues or combined issues.

90 § 4. The bonds shall be signed on behalf of the Commonwealth by the Governor or shall bear his
91 facsimile signature and by the State Treasurer or shall bear his facsimile signature and shall bear the
92 lesser seal of the Commonwealth or a facsimile thereof. In the event that the bonds bear the facsimile
93 signature of the State Treasurer, the bonds shall be signed by such administrative assistant or
94 authenticated by such agent as may be appointed by the State Treasurer. In case any officer whose
95 signature or facsimile of whose signature appears on any bonds ceases to be such officer before the
96 delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all
97 purposes the same as if he had remained in office until such delivery. Any bond may bear the facsimile
98 signature of, or may be signed by, such persons as at the actual time of the execution of such bond are
99 the proper officers to sign such bond although at the date of such bond such persons may not have been
100 such officers.

101 § 5. The Treasury Board is hereby authorized, by and with the consent of the Governor, to borrow
102 money in anticipation of the issuance of the bonds. Such bond anticipation notes shall be dated, shall
103 mature at such time or times not exceeding five years from their date or dates, and may be redeemable
104 before their maturity or maturities at such price or prices, all as may be determined by the Treasury
105 Board, by and with the consent of the Governor. The bond anticipation notes shall be in such form;
106 shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other
107 method; and may contain such other provisions, all as determined by the Treasury Board or the State
108 Treasurer, when authorized by the Treasury Board. Such bond anticipation notes shall be executed in
109 the manner provided in § 4 hereof.

110 § 6. Proceeds (including any premium) of the bonds (except the proceeds of bonds the issuance of
111 which has been anticipated by bond anticipation notes) and proceeds of any bond anticipation notes
112 shall be placed by the State Treasurer in a special capital outlay and land purchase and improvement
113 fund in the State Treasury and shall be disbursed only for the purpose for which the bonds and any
114 bond anticipation notes have been issued. In the event that the proceeds of the bonds exceed the cost of
115 the projects specified herein, the Treasury Board shall cause such excess proceeds to be deposited in the
116 sinking fund hereinafter created. The proceeds of the bonds, the issuance of which has been anticipated
117 by bond anticipation notes, shall be used to pay such bond anticipation notes. Funds provided by the
118 General Assembly, or from any other source, for the payment of the principal of, premium, if any, and
119 interest on the bonds, the issuance of which has been anticipated by bond anticipation notes, shall be

used to pay the principal of, premium, if any, and interest on any bond anticipation notes.

§ 7. The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds of the Commonwealth, to be designated "Virginia Open Space Bonds, Series...", to refund any or all of the bonds issued under this act. No refunding bonds shall be issued in a principal amount exceeding that necessary to amortize the principal of, premium, if any, and interest on the bonds to be refunded and to pay all issuance costs and other financing expenses of the refunding bonds. Such refunding bonds may be issued whether or not the bonds to be refunded are then subject to redemption. Such refunding bonds shall be issued and sold in the manner and subject to the limitations prescribed in § 3 for the issuance and sale of bonds and shall be executed in the manner provided in § 4 for the execution of bonds.

The "Commonwealth of Virginia Open Space Refunding Bonds, Series..." authorized hereby may be issued at one time or in part from time to time or may, in the discretion of the Treasury Board, be issued and sold at the same time with any general obligation bonds of the Commonwealth authorized pursuant to Article X, Section 9 (a)(3), (b), or (c) of the Constitution of Virginia, to be designated "Commonwealth of Virginia General Obligation Bonds, Series ...," either as separate issues or combined issues.

§ 8. The proceeds of the refunding bonds shall be applied to (i) the payment of issuance costs and other financing expenses; (ii) the payment of matured or redeemable bonds, including any redemption premium; (iii) the payment of unmatured bonds which shall then be on deposit with a bank or trust company for surrender to the Commonwealth upon receipt therefor of a sum not exceeding the amount due on such bonds; or (iv) the establishment of an escrow or sinking fund consisting of cash and noncallable obligations of, or unconditionally guaranteed as to payment of principal and interest in full by the United States of America in an amount which together with interest to be earned on such obligations will be sufficient to pay all bonds to be refunded either at maturity or upon redemption, all as provided for upon the creation of such sinking fund. Any escrow or sinking fund established with the proceeds from the sale of any refunding bonds shall be irrevocably pledged to the payment of the bonds to be refunded, and shall be used solely to pay such bonds at maturity or upon redemption or for the purchase of not less than all of the bonds to be refunded. Any such escrow or sinking fund shall constitute a special fund for the payment of such refunding bonds, and such refunding bonds, to the extent of the amount set aside for the payment thereof in such sinking fund, shall not be included for the purposes of determining any limitations upon the amount of bonded indebtedness of the Commonwealth that may be incurred pursuant to Section 9 (b) of Article X of the Constitution of Virginia.

§ 9. The proceeds of the bonds and any refunding bonds or bond anticipation notes are hereby appropriated for disbursement from the State Treasury for the current biennium pursuant to Article X, Section 7 of the Constitution of Virginia, and § 2.1-224 of the Code of Virginia. The general conditions and general provisions of the general appropriation act enacted pursuant to Chapter 27 (§ 2.1-387 et seq.) of Title 2.1 of the Code of Virginia, in effect from time to time, and all of the terms and conditions contained therein shall apply to the capital projects listed in § 2. The Governor or his designee is hereby authorized to increase the appropriation for any project listed in § 2 by the amount of the proceeds of donations, gifts, grants or other nongeneral funds paid into the State Treasury in excess of such appropriation.

§ 10. Pending the application of the proceeds of the bonds or any bond anticipation notes to the purpose for which they have been authorized, all or any part of such proceeds may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds. Whenever the State Treasurer receives interest from the investment of proceeds of bonds or any bond anticipation notes, such interest shall become a part of the principal of the bonds or any bond anticipation notes and shall be used in the same manner as required for the principal of the bonds or any bond anticipation notes. However, the Treasury Board may direct that the interest received from the investment of proceeds of the bonds or any bond anticipation notes be transferred to the general fund of the State Treasury.

§ 11. The full faith and credit of the Commonwealth is hereby irrevocably pledged for the payment of the principal of and the interest on the bonds and any refunding bonds herein authorized. The proceeds of the bonds, the issuance of which has been anticipated by bond anticipation notes, are hereby irrevocably pledged for the payment of the principal of and interest on such bond anticipation notes. In addition, the Treasury Board may pledge the full faith and credit of the Commonwealth for the payment of the principal of and interest on any bond anticipation notes. If sufficient funds are not appropriated in the budget for any fiscal year for the timely payment of the principal of and the interest on the bonds, any refunding bonds or any bond anticipation notes where the full faith and credit of the Commonwealth has been pledged, a sum sufficient to pay such principal and interest shall be set apart by direction of the Governor, from the first general fund revenues received during such fiscal year and thereafter.

181 *In order to insure the payment of the principal of and the interest on the bonds or any refunding*
182 *bonds, there is hereby created a sinking fund for such purposes in which there shall be deposited*
183 *annually, beginning not later than one-tenth of the term of the bonds or refunding bonds, as the case*
184 *may be, out of any available moneys in the general fund of the State Treasury, or from any other*
185 *source, a sum sufficient to pay the principal of and the interest on the bonds becoming due in each*
186 *year. In the event that any series of bonds or refunding bonds shall all become due in one year, there*
187 *shall be deposited annually into such sinking fund, in addition to the amount necessary to pay the*
188 *interest on the bonds or the refunding bonds, as the case may be, a sum sufficient for redeeming or*
189 *paying all such bonds or the refunding bonds, as the case may be, by their stated maturity. The amounts*
190 *of such annual deposits of principal shall be determined by the Treasury Board, by and with the consent*
191 *of the Governor prior to the issuance of the bonds or the refunding bonds, as the case may be, provided*
192 *that no annual deposit shall exceed the smallest previous annual deposit by more than 100 percent.*
193 *Such sinking fund shall not be appropriated for any other purpose.*

194 *The moneys in such sinking fund shall be invested by the Treasury Board in accordance with the*
195 *provisions of general law relating to the investment of sinking funds belonging to or within the control*
196 *of the Commonwealth.*

197 *§ 12. To the extent not otherwise provided for, all expenses incurred under this act shall be paid*
198 *from the proceeds of the bonds, any refunding bonds or bond anticipation notes, or from any other*
199 *available funds as the Treasury Board shall determine.*

200 *§ 13. The interest on the bonds, any refunding bonds or bond anticipation notes shall at all times be*
201 *exempt from taxation by the Commonwealth or by any political subdivision thereof. The interest on the*
202 *bonds, any refunding bonds or bond anticipation notes may be subject to inclusion in the gross income*
203 *of the holders thereof for federal income tax purposes.*

204 *§ 14. The question of the effectiveness of this act and the authorization of the bonds shall be*
205 *submitted to the qualified voters of the Commonwealth at the general election to be held on November*
206 *2, 1999. Notice of the election shall be published at least twice, the first publication being at least*
207 *forty-five days before the election, in such newspapers designated by the State Board of Elections which*
208 *collectively circulate throughout the Commonwealth. The election shall be held; the ballots prepared,*
209 *distributed and voted; and the results thereof ascertained and certified, in accordance with Title 24.2 of*
210 *the Code of Virginia, relating to special elections. The ballots to be used at the election shall pose the*
211 *question in substantially the following form:*

212 *QUESTION: "Shall Chapter. . . of the Acts of the General Assembly of 1999, authorizing the*
213 *issuance of general obligation bonds of the Commonwealth of Virginia in the maximum amount of \$*
214 *111,410,000 pursuant to Article X, Section 9 (b) of the Constitution of Virginia for acquisition of*
215 *interests in land TO PRESERVE OPEN SPACE LANDS FOR PARKS, HISTORIC SITES, AND*
216 *FARMLAND AND FORESTS, take effect?"*

217 *☐ Yes*

218 *☐ No*

219 *The State Board of Elections shall cause to be sent to the electoral boards of each county and city*
220 *sufficient copies of the full text of this act and the question contained herein for the officers of election*
221 *to post in each polling place on election day. The State Board of Elections shall without delay make out*
222 *and transmit to the Governor and to the Treasury Board an official copy of the report of the whole*
223 *number of votes cast at the election for and against the act, certified by it.*

224 *If a majority of those voting thereon vote in favor of this act, this act shall take effect, and the bonds*
225 *may be issued as provided herein. If a majority of those voting thereon vote against this act, this act*
226 *shall not take effect, and the bonds shall not be issued.*

227 *The expenses incurred in conducting this election shall be defrayed as in the case of election of*
228 *members of the General Assembly.*

229 *§ 15. Any provision of this act or the application thereof to any person or circumstance which is*
230 *held invalid shall not affect the validity of other provisions or applications of this act which can be*
231 *given effect without the invalid provision or application.*