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SENATE BILL NO. 666

Senate Amendments in [] — February 14, 2006

A *BILL to amend and reenact §§ 56-557 and 56-563 of the Code of Virginia, relating to the Public-Private Transportation Act of 1995; affected jurisdictions.*

Patrons Prior to Engrossment—Senators Saslaw and Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 56-557 and 56-563 of the Code of Virginia are amended and reenacted as follows:**

§ 56-557. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affected jurisdiction" means any county, city or town in which all or a portion of a qualifying transportation facility is located and any other responsible public entity directly affected by the qualifying transportation facility.

"Asset management" means a systematic process of operating and maintaining the state system of highways by combining engineering practices and analyses with sound business practices and economic theory to achieve cost-effective outcomes.

"Commission" means the State Corporation Commission.

"Concession" means any lease, license, franchise, easement or other binding agreement transferring rights for the use or control, in whole or in part, of a qualifying transportation facility by a responsible public entity to a private entity for a definite term during which the private entity will provide transportation-related services including, but not limited to, operations and maintenance, revenue collection, toll collection enforcement, construction, and other activities that enhance throughput, reduce congestion, or otherwise manage the facility in return for the right to receive all or a portion of the revenues of the qualifying transportation facility.

"Comprehensive agreement" means the comprehensive agreement between the private entity and the responsible public entity required by § 56-566 of this chapter.

"Develop" or "development" means to plan, design, develop, finance, lease, acquire, install, construct, or expand.

"Interim agreement" means an agreement, including a memorandum of understanding or binding preliminary agreement, between the private entity and the responsible public entity that provides for completion of studies and any other activities to advance the development and/or operation of a qualifying transportation facility.

"Maintenance" means that term as defined in § 33.1-23.02.

"Material default" means any default by the private entity in the performance of its duties under subsection E of § 56-565 of this chapter that jeopardizes adequate service to the public from a qualifying transportation facility and remains unremedied after the responsible public entity has provided notice to the private entity and a reasonable cure period has elapsed.

"Multimodal transportation facility" means a transportation facility consisting of multiple modes of transportation.

"Operate" or "operation" means to finance, maintain, improve, equip, modify, repair, or operate.

"Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity or other business entity.

"Public entity" means the Commonwealth and any agency or authority thereof, any county, city, or town and any other political subdivision of any of the foregoing, but shall not include any public service company.

"Qualifying transportation facility" means one or more transportation facilities developed and/or operated by a private entity pursuant to this chapter.

"Responsible public entity" means a public entity, including local governments and regional authorities, that has the power to develop and/or operate the qualifying transportation facility.

"Revenues" means all revenues, including, but not limited to, income, earnings, user fees, lease payments, allocations, federal, state and local appropriations, bond proceeds, equity investments, and/or service payments arising out of or in connection with supporting the development and/or operation of a qualifying transportation facility, including without limitation, money received as grants or otherwise from the United States of America, from any public entity, or from any agency or instrumentality of the foregoing in aid of such facility.

ENGROSSED

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59 "Service contract" means a contract entered into between a public entity and the private entity
60 pursuant to § 56-561 of this chapter.

61 "Service payments" means payments to the private entity in connection with the development and/or
62 operation of a qualifying transportation facility pursuant to a service contract.

63 "State" means the Commonwealth of Virginia.

64 "Transportation facility" means any road, bridge, tunnel, overpass, ferry, airport, mass transit facility,
65 vehicle parking facility, port facility or similar commercial facility used for the transportation of persons
66 or goods, together with any buildings, structures, parking areas, appurtenances, and other property
67 needed to operate such facility [; however, a commercial or retail use or enterprise not essential to the
68 transportation of persons or goods shall not be a "transportation facility."] .

69 "User fees" mean the rates, tolls, fees, or other charges imposed by the private entity for use of all or
70 a portion of a qualifying transportation facility pursuant to the interim or comprehensive agreement.

71 § 56-563. Affected jurisdictions.

72 A. Any private entity requesting approval from, or submitting a proposal to, a responsible public
73 entity under § 56-560 shall notify each affected jurisdiction by furnishing a copy of its request or
74 proposal to each affected jurisdiction.

75 B. Each affected jurisdiction that is not a responsible public entity for the respective qualifying
76 transportation facility shall, within 60 days after receiving a request for comments from the responsible
77 public entity, submit any comments it may have in writing on the proposed qualifying transportation
78 facility to the responsible public entity and indicating whether the facility will address the needs
79 identified in the appropriate state, regional, or local transportation plan by improving safety, reducing
80 congestion, increasing capacity, and/or enhancing economic efficiency.

81 C. Any qualifying transportation facility, title or easement to which is held by the Commonwealth or
82 any agency or authority thereof and the rights to develop or operate which have been granted to a
83 private entity through a concession as defined in § 56-557, shall be subject to the provisions of Title
84 15.2 in the same manner as a facility of the Commonwealth, mutatis mutandis, except that such private
85 entity shall comply with the provisions of subsections B and C of § 15.2-2202 as they relate to the
86 affected jurisdiction's comprehensive plan.