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SENATE BILL NO. 31

Offered January 10, 2018

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A BILL to amend and reenact §§ 33.2-1700 and 33.2-1709 of the Code of Virginia; to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 and 33.2-3401; and to repeal Chapter 23 (§§ 33.2-2300 and 33.2-2301) of Title 33.2 of the Code of Virginia and the thirteenth enactment of Chapter 766 of the Acts of Assembly of 2013, relating to the Interstate 73 Corridor Development Fund and Program.

Patron—Stanley

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-1700 and 33.2-1709 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 and 33.2-3401, as follows:

§ 33.2-1700. Definitions.

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

"Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission, or officer succeeding to the principal functions thereof or upon whom the powers given by this chapter to the Board shall be given by law.

"Cost of the project," as applied to a project to be acquired by purchase or by condemnation, includes:

1. The purchase price or the amount of the award;
2. The cost of improvements, financing charges, and interest during any period of disuse before completion of improvements;
3. The cost of traffic estimates and of engineering data;
4. The cost of engineering and legal expenses;
5. The cost of plans, specifications and surveys, and estimates of cost and of revenues; and
6. Other expenses necessary or incident to determining the feasibility or practicability of the enterprises, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this chapter and the acquisition of the project and the placing of the project in operation.

"Cost of the project," as applied to a project to be constructed, includes:

1. The cost of construction;
2. The cost of all lands, properties, rights, easements, and franchises acquired that are deemed necessary for such construction;
3. The cost of acquiring by purchase or condemnation any ferry that is deemed by the Board to be competitive with any bridge to be constructed;
4. The cost of all machinery and equipment;
5. The cost of financing charges and interest prior to construction, during construction, and for one year after completion of construction;
6. The cost of traffic estimates and of engineering data;
7. The cost of engineering and legal expenses;
8. The cost of plans, specifications and surveys, estimates of cost and of revenues; and
9. Other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this chapter, the construction of the project, the placing of the project in operation, and the condemnation of property necessary for such construction and operation.

"Improvements" means those repairs to, replacements of, additions to, and betterments of a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions, and betterments are ordered prior to the sale of any bonds for the acquisition of such project.

"Owner" includes all individuals, incorporated companies, partnerships, societies, and associations having any title or interest in any property rights, easements, or franchises authorized to be acquired by this chapter.

"Project" means any one or more of the following:

1. The York River Bridges, extending from a point within Yorktown in York County or within York

59 County across the York River to Gloucester Point or some point in Gloucester County.

60 2. The Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex
61 County, across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County,
62 or at some other feasible point in the general vicinity of the two respective points.

63 3. The James River Bridge, from a point at or near Jamestown, in James City County, across the
64 James River to a point in Surry County.

65 4. The James River, Chuckatuck, and Nansemond River Bridges, together with necessary connecting
66 roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

67 5. The Hampton Roads Bridge-Tunnel or Bridge and Tunnel System, extending from a point or
68 points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across
69 Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of
70 Hampton Roads.

71 6. Interstate 264, extending from a point in the vicinity of the intersection of Interstate 64 and U.S.
72 Route 58 at Norfolk to some feasible point between London Bridge and U.S. Route 60.

73 7. The Henrico-James River Bridge, extending from a point on the eastern shore of the James River
74 in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges
75 of Interstate 95; however, the project shall be deemed to include all property, rights, easements, and
76 franchises relating to this project and deemed necessary or convenient for its operation, including its
77 approaches.

78 8. The limited access highway between the Newport News/Williamsburg International Airport area
79 and the Newport News downtown area, which generally runs parallel to tracks of the Chesapeake and
80 Ohio Railroad.

81 9. Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls
82 Church Metrorail station at Interstate 66 and a western terminus of Virginia Route 772 in Loudoun
83 County, including without limitation the Dulles Toll Road; the Dulles Access Road; outer roadways
84 adjacent or parallel thereto; mass transit, including rail; bus rapid transit; and capacity-enhancing
85 treatments such as high-occupancy vehicle lanes, high-occupancy toll lanes, interchange improvements,
86 commuter parking lots, and other transportation management strategies.

87 10. Subject to the limitations and approvals of § 33.2-1712, any other highway for a primary
88 highway transportation improvement district or transportation service district that the Board has agreed
89 to finance under a contract with any such district or any other alternative mechanism for generation of
90 local revenues for specific funding of a project satisfactory to the Board, the financing for which is to
91 be secured by Transportation Trust Fund revenues under any appropriation made by the General
92 Assembly for that purpose and payable first from revenues received under such contract or other local
93 funding source; second, to the extent required, from funds appropriated and allocated, pursuant to the
94 highway allocation formula as provided by law, to the highway construction district in which the project
95 is located or to the county or counties in which the project is located; and third, to the extent required
96 from other legally available revenues of the Transportation Trust Fund and from any other available
97 source of funds.

98 11. The ~~U.S. Route 58 Interstate 73~~ Corridor Development Program projects as defined in §§
99 ~~33.2-2300 33.2-3400~~ and ~~33.2-2304 33.2-3401~~.

100 12. The Northern Virginia Transportation District Program as defined in §§ 33.2-2400 and 33.2-2401.

101 13. Any program for highways or mass transit or transportation facilities endorsed by the affected
102 localities, which agree that certain distributions of state recordation taxes will be dedicated and used for
103 the payment of any bonds or other obligations, including interest thereon, the proceeds of which were
104 used to pay the cost of the program. Any such program shall be referred to as a "Transportation
105 Improvement Program."

106 14. Any project designated by the General Assembly financed in whole or part through the issuance
107 of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

108 15. Any project authorized by the General Assembly financed in whole or in part by funds from the
109 Priority Transportation Fund established pursuant to § 33.2-1527 or from the proceeds of bonds whose
110 debt service is paid in whole or in part by funds from such Fund.

111 16. Any project identified by the Board to be financed in whole or in part through the issuance of
112 Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.

113 "Revenues" includes tolls and any other moneys received or pledged by the Board pursuant to this
114 chapter, including legally available Transportation Trust Fund revenues and any federal highway
115 reimbursements and any other federal highway assistance received by the Commonwealth.

116 "Toll project" means a project financed in whole or in part through the issuance of revenue bonds
117 that are secured by toll revenues generated by the project.

118 "Undertaking" means all of the projects authorized to be acquired or constructed under this chapter.

119 **§ 33.2-1709. Credit of Commonwealth not pledged.**

120 A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this chapter shall

not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor from tolls and revenues pursuant to this chapter, from bond proceeds or earnings thereon, and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this chapter, from bond proceeds or earnings thereon, and from any other available sources of funds, and that the full faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this chapter or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor pursuant to this chapter (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board; (ii) 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 to be financed is located or to the county or counties in which such project is located; (iii) from bond proceeds or earnings thereon; (iv) to the extent required, from other legally available revenues of the Transportation Trust Fund; and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) and that the full faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this chapter from the sources set forth in clauses (i) and (iii). Nothing in this chapter shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor pursuant to this chapter (i) from revenues received from the ~~U.S. Route 58 Interstate 73~~ Corridor Development Fund established pursuant to ~~§ 33.2-2300~~ 33.2-3400, 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 that may be appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this chapter for Category 1 projects as provided in subdivision 12 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) first from revenues received from the Northern Virginia Transportation District Fund established pursuant to § 33.2-2400; (ii) 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 to be financed is located or to the city or county in which the project to be financed is located; (iii) to the extent required, from legally available revenues of the Transportation Trust Fund; and (iv) from such other funds that may be appropriated by the General Assembly.

E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this chapter for projects defined in subdivision 13 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) first from any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1; (ii) to the extent required, from revenues received pursuant to any contract with a locality or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board; (iii) 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 to be financed is located or to the city or county in which the project to be financed is located; (iv) to the extent required, from legally available revenues from the Transportation Trust Fund; and (v) from such other funds that may be appropriated by the General Assembly.

F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received by the Commonwealth; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then, from such other funds, if any, that are designated by the General Assembly for such purpose.

G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to appropriation by the General Assembly, from revenues with respect to or generated by the project being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in accordance with the applicable federal credit assistance authorized with respect to such project by the U.S. Department of Transportation.

H. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds issued under the provisions of this chapter for projects as provided in subdivision 15 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to § 33.2-1527; (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.

I. Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes issued under the provisions of Article 4 (§ 33.2-1511 et seq.) of Chapter 15 and this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such notes shall be payable solely, subject to their appropriation by the General Assembly, (i) first from the project-specific reimbursements pursuant to § 33.2-1520; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if any, that are designated by the General Assembly for such purpose.

CHAPTER 34.

INTERSTATE 73 CORRIDOR DEVELOPMENT FUND AND PROGRAM.

§ 33.2-3400. Interstate 73 Corridor Development Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Interstate 73 Corridor Development Fund, referred to in this chapter as "the Fund," consisting of the first \$40 million of annual collections of the state recordation taxes imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1, provided, however, that this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814. The Fund shall also include such other funds as may be appropriated by the General Assembly and designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from the Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.2-3401.

§ 33.2-3401. Interstate 73 Corridor Development Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of south-central and Southwest Virginia be addressed by the Fund. Moneys contained in the Fund shall be used for the costs of providing an adequate, modern, safe, and efficient highway system, through the Commonwealth from North Carolina to West Virginia (the Program), including environmental and engineering studies, rights-of-way acquisition, construction, improvements, and financing costs.

B. Allocations from the Fund shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient highway system in the southwestern-most portion of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, and mobility along such highway.

C. Allocations from the Fund shall not diminish or replace allocations made or planned to be made from other sources or diminish allocations to which any highway, project, facility, district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that highway resource improvements in the Interstate 73 Corridor may be accelerated and augmented. Notwithstanding any contrary provisions of this title, allocations from the Fund may be applied to highway projects in the Interstate System, primary or secondary state highway system, or urban highway system. Allocations under this subsection shall not be limited to projects involving only Interstate 73 but may be made to projects involving other highways, provided that the broader goal of creation of an adequate modern highway system in southwest Virginia is served thereby.

D. The Commonwealth Transportation Board may expend such funds from all sources as may be

lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection F. Any moneys expended from the Transportation Trust Fund for the Program, other than moneys contained in the Fund, may be reimbursed from the Fund, to the extent permitted by Article X, Section 9 of the Constitution of Virginia.

E. The Commonwealth Transportation Board is encouraged to utilize the existing four-lane divided highways, available rights-of-way acquired for additional four-laning, bypasses, connectors, and alternate routes.

F. To the extent permitted by Article X, Section 9 of the Constitution of Virginia, moneys contained in the Fund may be used to secure payment of bonds or other obligations, and the interest thereon, issued in furtherance of the purposes of this section. In addition, the Commonwealth Transportation Board is authorized to receive, dedicate, or use legally available Transportation Trust Fund revenues and any other available sources of funds to secure the payment of bonds or other obligations, including interest thereon, in furtherance of the Program. No bond or other obligations payable from revenues of the Fund shall be issued unless specifically approved by the General Assembly. No bond or other obligations, secured in whole or in part by revenues of the Fund, shall pledge the full faith and credit of the Commonwealth.

G. Forty million dollars shall be transferred annually to the Interstate 73 Corridor Development Fund. Such transfer shall be made by the issuance of a treasury loan at no interest in the amount of \$40 million to the Fund to ensure that the Fund is fully funded on the first day of the fiscal year. Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by § 33.2-3400. For each fiscal year following, the Secretary of Finance is authorized to make additional treasury loans in the amount of \$40 million on July 1 of such fiscal years, and such treasury loans shall be repaid in a like manner as provided in this subsection.

2. That Chapter 23 (§§ 33.2-2300 and 33.2-2301) of Title 33.2 of the Code of Virginia is repealed.

3. That the thirteenth enactment of Chapter 766 of the Acts of Assembly of 2013 is repealed.

4. That the provisions of the first, second, and third enactments of this act shall become effective upon the completion of the construction of and payments, including debt service payments, for all parts of the U.S. Route 58 Corridor Development Program. Such completion shall be determined by the Commissioner of Highways.