

# VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

## CHAPTER 547

*An Act to amend and reenact § 33.2-1529.1 of the Code of Virginia and to amend and reenact the seventh enactment of Chapter 726 of the Acts of Assembly of 2014, relating to Transportation Partnership Opportunity Fund.*

[S 1106]

Approved March 26, 2023

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-1529.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-1529.1. Transportation Partnership Opportunity Fund.**

A. There is hereby created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to provide funds to address the transportation aspects of economic development opportunities *or to enhance the economic development opportunities of the Commonwealth's transportation programs*. The Fund shall consist of (i) funds pursuant to subdivision B 3 of § 33.2-1524 and (ii) any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation as funds are awarded in accordance with this section.

B. The Fund shall be a subfund of the Transportation Trust Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.

C. 1. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to an agency or political subdivision of the Commonwealth. Loans shall be approved by the Governor and made in accordance with procedures established by the Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Department shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

2. *The Governor may direct funds from the Fund to the Board for transportation projects determined to be necessary to support major economic development initiatives or to enhance the economic development opportunities of the Commonwealth's transportation programs when recommended by the Secretary of Transportation and Secretary of Commerce and Trade. Upon the direction of funds pursuant to this subdivision in excess of \$5 million, the Secretary of Transportation shall within 30 days submit a report on such direction of funds to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations. Such report shall be sent to the Chairmen and the staff directors of such committees. Such report shall include the name of the transportation project to which the funds are being directed, the locality in which the transportation project is being developed, the amount of the grant or loan made or committed to the transportation project from the Fund and the purpose for which it will be used, the number of jobs retained or created or projected to be retained or created by the transportation project, the expected rate of return on investment of the transportation project, and the amount of a company's investment in the Commonwealth. Any direction of funds pursuant to this subdivision in a cumulative amount in excess of \$35 million on any one project shall be submitted for review to the MEI Project Approval Commission (the Commission) established pursuant to § 30-309. The Commission shall complete such review within 14 days. In the event that the Commission does not recommend such direction of funds, such direction of funds shall not be made unless subsequently authorized by the General Assembly. Absent a recommendation within such 14-day period that the funds should not be directed, or in the event that the Commission does not provide a recommendation within such 14-day period, the funds shall be directed.*

D. Grants, *funds directed to the Board*, or revolving loans may be used for transportation capacity development on and off site; road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, and financial analysis; *property acquisition and new or improved infrastructure to support economic development opportunities of the Commonwealth's transportation programs*; or anything else permitted by law. Funds may be used for any transportation project or any

transportation facility. Any transportation infrastructure completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.

E. The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant *provided pursuant to subdivision C 1* shall exceed \$5 million and no loan *provided pursuant to subdivision C 1* shall exceed \$30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation. The guidelines and criteria shall include provisions including the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Appropriations and on Transportation that shall include the following information: the locality in which the project is being developed, the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used, the number of jobs created or projected to be created, and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

*H. Nothing herein shall be construed to authorize the use of eminent domain for any purposes prohibited by § 1-219.1 or Article I, Section 11 of the Constitution of Virginia.*

**2. That the seventh enactment of Chapter 726 of the Acts of Assembly of 2014 is amended and reenacted as follows:**

**7. That notwithstanding § 33.1-23.5:5 as created by this act, the Commonwealth Transportation Board shall ensure that no project shall be undertaken ~~primarily~~ *exclusively* for economic development purposes.**