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**HOUSE BILL NO. 1496**

Offered January 11, 2023

Prefiled January 3, 2023

*A BILL to amend and reenact §§ 33.2-1526.1 and 33.2-3500 of the Code of Virginia, relating to the Commonwealth Mass Transit Fund.*

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Patron—Austin

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Referred to Committee on Transportation

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

**1. That §§ 33.2-1526.1 and 33.2-3500 of the Code of Virginia are amended and reenacted as follows:**

**§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.**

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, beginning in fiscal year 2022, up to \$50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following:

1. ~~Twenty-seven~~ *Twenty-four and one-half* percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied. The Washington Metropolitan Area Transit Authority (WMATA) *and the Virginia Railway Express* shall not be eligible for an allocation of funds pursuant to this subdivision.

2. Eighteen percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. The Washington Metropolitan Area Transit Authority shall not be eligible for an allocation of funds pursuant to this subdivision.

3. Forty-six and one-half percent of the funds shall be allocated to the Northern Virginia Transportation Commission for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission.

4. Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.3.

5. Two and one-half percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

6. *Two and one-half percent of the funds shall be allocated for operating purposes to the Commuter*

59 *Rail Operating and Capital Fund established pursuant to § 33.2-3500. The actual distribution of such*  
60 *funds shall be based on service delivery factors established by the Board, which shall be based on*  
61 *effectiveness and efficiency. Such factors and their relative weights shall be evaluated every three years.*  
62 *If the actual distribution is less than the amount allocated pursuant to this section, the Board shall*  
63 *allocate the remaining funds as provided in subdivision D 1.*

64 E. The Board may consider the transfer of funds from subdivisions D 2 and 5 to subdivision D 1 in  
65 times of statewide economic distress or statewide special need.

66 F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of  
67 the Fund revenues in order to ensure stability in providing operating and capital funding to transit  
68 entities from year to year, provided that such balance shall not exceed five percent of revenues in a  
69 given biennium.

70 G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of  
71 project development, project administration, and project compliance incurred by the Department of Rail  
72 and Public Transportation in implementing rail, public transportation, and congestion management grants  
73 and programs.

74 H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA  
75 pursuant to subdivision D 3 shall be credited to the Counties of Arlington and Fairfax and the Cities of  
76 Alexandria, Fairfax, and Falls Church. Beginning in the fiscal year when service starts on Phase II of  
77 the Silver Line, such funds shall also be credited to Loudoun County. Funds allocated pursuant to this  
78 subsection shall be credited as follows:

79 1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality  
80 using WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for  
81 these payments.

82 2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the  
83 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall  
84 include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of  
85 Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's  
86 jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

87 I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as  
88 defined by P.L. 96-184.

89 J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the  
90 Department of Rail and Public Transportation directly to WMATA or to any other transportation entity  
91 that has an agreement to provide funding to WMATA.

92 K. In any year that the total Virginia operating assistance in the approved WMATA budget increases  
93 by more than three percent from the total operating assistance in the prior year's approved WMATA  
94 budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision  
95 D 3. The following items shall not be included in the calculation of any WMATA budget increase: (i)  
96 any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any  
97 capital project approved by the WMATA Board before or after the effective date of this provision; (iii)  
98 any payments or obligations of any kind arising from or related to legal disputes or proceedings between  
99 or among WMATA and any other person or entity; and (iv) any service increases approved by the  
100 WMATA Board.

101 L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 if (i) any  
102 alternate directors participate or take action at an official WMATA Board meeting or committee meeting  
103 as Board directors for a WMATA compact member when both directors appointed by that same  
104 WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the  
105 WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate  
106 directors.

### 107 **§ 33.2-3500. Commuter Rail Operating and Capital Fund.**

108 A. The General Assembly declares it to be in the public interest that developing and continuing  
109 commuter rail operations and developing rail infrastructure, rolling stock, and support facilities to  
110 support commuter rail service are important elements of a balanced transportation system in the  
111 Commonwealth and further declares that retaining, maintaining, improving, and developing commuter  
112 rail-related infrastructure improvements and operations are essential to the Commonwealth's continued  
113 economic growth, vitality, and competitiveness in national and world markets.

114 B. There is hereby created in the state treasury a special nonreverting fund to be known as the  
115 Commuter Rail Operating and Capital Fund, referred to in this section as "the Fund." The Fund shall be  
116 established on the books of the Comptroller and shall consist of funds deposited into the Fund pursuant  
117 to § 58.1-2299.20 and other funds as may be set forth in a general appropriation act or allocated by the  
118 Commonwealth Transportation Board. Such funds shall be paid into the state treasury and credited to the  
119 Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any  
120 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert

121 to the general fund but shall remain in the Fund. The Comptroller shall disburse funds in the Fund  
122 monthly to transportation districts established pursuant to Chapter 19 (§ 33.2-1900 et seq.) that on July  
123 1, 2018, jointly operate a commuter rail system. The amount distributed to each transportation district  
124 shall be determined by multiplying the total amount of funds available for disbursement by a fraction,  
125 the numerator of which shall be such transportation district's share of funding for the commuter rail  
126 service jointly operated by the two transportation districts and the denominator of which shall be the  
127 total funding provided by both transportation districts for such commuter rail service.

128 C. If the transportation districts described in subsection B determine that such moneys distributed to  
129 the districts exceed the amount required to meet the current capital and operating needs of the commuter  
130 rail system, they may invest such excess moneys to the same extent as provided in subsection A of  
131 § 33.2-1525 for excess funds in the Transportation Trust Fund.

132 D. *Within the Fund, there shall be established a separate subfund (the Subfund) into which revenues*  
133 *dedicated to the Fund pursuant to § 33.2-1526.1 shall be deposited. Revenues deposited into the Subfund*  
134 *shall be available for use by the Board for distribution to commuter rail systems for operating purposes*  
135 *other than for the payment of, or security for, debt service on bonds or other indebtedness.*

136 E. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall  
137 not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to  
138 participating jurisdictions. Further, such revenues and moneys shall not be included in any computation  
139 of, or formula for, a locality's ability to pay for public education, upon which appropriations of state  
140 revenues to local governments for public education are determined. Any amounts deposited pursuant to  
141 § 58.1-2299.20 shall be considered local funds when used to make a required match for state or federal  
142 transportation grant funds.