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HOUSE BILL NO. 5

Offered January 10, 2024

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A BILL to create the Town of Leesburg Parking Authority.

Patrons—Martinez and Reid

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1.****TOWN OF LEESBURG PARKING AUTHORITY ACT.****§ 1. Short title.***This act shall be known and may be cited as the "Town of Leesburg Parking Authority Act."***§ 2. Declaration of public necessity.***It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the Town of Leesburg in the Commonwealth is necessary to the health, safety, and general welfare of the public, whether residing in the municipality or traveling to, through, or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through, and from the municipality, and endangers the health, safety, and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity.***§ 3. Definitions.***As used in this act the following words and terms shall have the following meanings, unless the context indicates a different meaning or intent:**"Authority" means the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.**"Cost," as applied to parking facilities or to extensions or additions thereto, includes the cost of construction or reconstruction; the cost of all labor, materials, machinery, and equipment; the cost of all lands, property, rights, easements, and interests acquired by the Authority for such construction or reconstruction or the operation thereof; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; financing charges; interest prior to and during construction; and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expenses, and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof, and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.**"Governing body" means the board, commission, council, or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.**"Municipality" means the Town of Leesburg in the Commonwealth of Virginia.**"Parking facilities" means and includes lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and buses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements, and interests relating thereto that are deemed necessary for the instruction or operation thereof; however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles.***§ 4. Creation of the Authority.***A. The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing*

59 *thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior*
60 *to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such*
61 *notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the*
62 *proposed articles of incorporation of the Authority, and shall state the time and place of the public*
63 *hearing to be held thereon. Such municipality shall not be required to make any other publication of*
64 *such resolution under the provisions of any other law.*

65 *B. Such resolution shall include articles of incorporation that shall set forth:*

66 *1. The name of the Authority;*

67 *2. A statement that such Authority is organized under this act;*

68 *3. The name of the organizing municipality; and*

69 *4. The names and addresses of the first members of the Authority appointed by the organizing*
70 *municipality.*

71 *C. Passage of such resolution by the governing body shall constitute the Authority a public body and*
72 *a body politic and corporate of the Commonwealth of Virginia.*

73 *§ 5. Membership of the Authority.*

74 *The Authority organized under the provisions of this act shall consist of five members selected by the*
75 *governing body who shall serve for terms expiring one, two, three, four, and five years, respectively,*
76 *from the date of appointment, the term of each such member to be designated by the governing body.*
77 *The successor of each member of the Authority shall be appointed for a term of five years, but any*
78 *person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and any*
79 *member of the Authority may be reappointed.*

80 *Each member of the Authority before entering upon his duties shall take and subscribe an oath or*
81 *affirmation to support the Constitution of the United States and the Constitution of Virginia and to*
82 *discharge faithfully the duties of his office, and a record of each such oath shall be filed with the*
83 *Secretary of the Authority.*

84 *The Authority shall select one of its members as chair and another as vice-chair and shall also*
85 *select a secretary and a treasurer who may but need not be members of the Authority. The offices of*
86 *secretary and treasurer may be combined. The terms of office of the chair, vice-chair, secretary, and*
87 *treasurer shall be as provided in the bylaws of the Authority.*

88 *A majority of the members of the Authority shall constitute a quorum, and the affirmative vote of a*
89 *majority of all of the members of the Authority shall be necessary for any action taken by the Authority.*
90 *No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the*
91 *rights and perform all of the duties of the Authority. The members of the Authority shall serve without*
92 *compensation but shall be reimbursed for the amount of actual expenses incurred by them in the*
93 *performance of their duties.*

94 *The town manager, or his designee, of the organizing municipality shall serve as an ex officio,*
95 *nonvoting member of the Authority.*

96 *§ 6. General grant of powers.*

97 *The Authority created hereunder shall be deemed to be a public instrumentality exercising public and*
98 *essential governmental functions to provide for the public health and welfare, and the Authority is*
99 *hereby authorized and empowered to:*

100 *1. Adopt bylaws for the regulation of its affairs and the conduct of its business;*

101 *2. Adopt an official seal and alter the same at pleasure;*

102 *3. Maintain an office at such place or places as it may designate;*

103 *4. Sue and be sued in its own name and to plead and be impleaded;*

104 *5. Construct, reconstruct, equip, improve, extend, enlarge, maintain, repair, and operate parking*
105 *facilities within the corporate limits of the organizing municipality;*

106 *6. Issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction,*
107 *reconstruction, equipment, improvement, extension, or enlargement;*

108 *7. Issue revenue refunding bonds of the Authority as hereinafter provided;*

109 *8. Fix and revise from time to time and to charge and collect rates, rentals, fees, and other charges*
110 *for the services and facilities furnished by such parking facilities, and to establish and revise from time*
111 *to time regulations in respect of the use, operation, and occupancy of such parking facilities or part*
112 *thereof;*

113 *9. Accept from any authorized agency of the federal government loans or grants for the planning,*
114 *construction, or acquisition of any parking facilities and to enter into agreements with such agency*
115 *respecting any such loans or grants, and to receive and accept aid and contributions from any source of*
116 *either money, property, labor, or other things of value, to be held, used, and applied only for the*
117 *purposes for which such loans, grants, or contributions may be made;*

118 *10. Acquire in the name of the Authority by gift, purchase, or the exercise of the right of eminent*
119 *domain in accordance with the laws of the Commonwealth of Virginia that are applicable to the*
120 *exercise of such powers by cities or towns any lands or rights in lands and interest therein, and to*

121 acquire such personal property as it may deem necessary in connection with the construction,
122 reconstruction, improvement, extension, enlargement, or operation of any parking facilities; however, no
123 property of any corporation itself having the power of eminent domain may be condemned hereunder,
124 and the Authority shall not condemn any lands or personal property or right or interest therein unless
125 authorized so to do by resolution of the governing body of the city;

126 11. Lease all or any part of such parking facilities upon such terms and conditions and for such
127 term of years as it may deem advisable to carry out the provisions of this act; however, no enterprise
128 involving the sale or dispensing of any product or commodity used in or for the servicing of motor
129 vehicles shall be conducted on any space thereon;

130 12. Make and enter into all contracts and agreements necessary or incidental to the performance of
131 its duties and the execution of its powers under this act, including a trust agreement or trust agreements
132 securing any revenue bonds issued hereunder, and to employ such consulting and other engineers,
133 superintendents, managers, construction and financial experts, accountants, attorneys, and such
134 employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their
135 compensation; however, all such expenses shall be payable solely from funds made available under the
136 provisions of this act; and

137 13. Do all acts and things necessary or convenient to carry out the powers granted by this act.

138 § 7. Revenue bonds.

139 The Authority is hereby authorized to issue at one time or from time to time revenue bonds of the
140 Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving,
141 extending, or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall
142 mature at such time or times not exceeding 40 years from their date or dates, and shall bear interest at
143 such rate or rates not exceeding the maximum rate permitted by law to be paid by public bodies, as
144 may be determined by the Authority, and may be made redeemable before maturity, at the option of the
145 Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority
146 prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner
147 of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or
148 places of payment of principal and interest, which may be at any bank or trust company within or
149 without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall
150 appear on any bonds shall cease to be such officer before the delivery of such bonds, such signature or
151 such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained
152 in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in
153 any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable
154 instruments under the laws of the Commonwealth. The Authority may sell such bonds in such manner,
155 either at public or private sale, and for such price as it may determine to be for the best interests of the
156 Authority, but no such sale shall be made at a price so low as to require the payment of interest on the
157 money received therefor at more than the maximum rate permitted by law to be paid by public bodies,
158 computed with relation to the absolute maturity or maturities of the bonds in accordance with standard
159 tables of bond values, excluding, however, from such computation the amount of any premium to be
160 paid on redemption of any bonds prior to maturity.

161 The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds
162 shall have been authorized and shall be disbursed in such manner and under such restrictions, if any,
163 as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust
164 agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates
165 or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the
166 amount of such deficit and, unless otherwise provided in the authorizing resolution or in the trust
167 agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to
168 payment from the same fund without preference or priority of the bonds first issued for the same
169 purpose.

170 The resolution providing for the issuance of revenue bonds, and any trust agreement securing such
171 bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority
172 may deem proper, and such additional bonds shall be issued under such restrictions and limitations as
173 may be prescribed by such resolution or trust agreement.

174 Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim
175 receipts or temporary bonds exchangeable for definitive bonds when such bonds shall have been
176 executed and are available for delivery. The Authority may also provide for the replacement of any
177 bonds that shall become mutilated or be destroyed or lost.

178 Bonds may be issued under the provisions of this act without obtaining the consent of any
179 commission, board, bureau, or agency of the Commonwealth or of any political subdivision and without
180 any other proceedings or the happening of other conditions or things than those proceedings,
181 conditions, or things that are specifically required by this act.

182 Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the
183 Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge
184 of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but
185 such bonds shall be payable solely from the funds herein provided therefor and a statement to that
186 effect shall be recited on the face of the bonds.

187 § 8. Revenues.

188 The Authority shall fix, and may revise from time to time, rates, rentals, fees, and other charges for
189 the use of and for the services and facilities furnished or to be furnished by any parking facilities or
190 parts thereof owned or operated by the Authority. Such rates, rentals, fees, and charges shall not be
191 subject to supervision or regulation by any bureau, board, commission, or other agency of the
192 Commonwealth or of any political subdivision. Such rates, rentals, fees, and charges shall be fixed and
193 revised so that the revenues of the Authority, together with any other available funds, will be sufficient
194 at all times (i) to pay the cost of maintaining, repairing, and operating the parking facilities or parts
195 thereof owned or operated by the Authority, including reserves for such purposes, and (ii) to pay the
196 principal of and the interest on all bonds issued by the Authority under the provisions of this act as the
197 same shall become due and payable and to provide reserves therefor. Notwithstanding any of the
198 foregoing provisions of this section, the Authority may enter into contracts relating to use of the services
199 and facilities of the parking facilities on such terms and conditions as the Authority shall determine to
200 be proper, which contracts shall not be subject to revision except in accordance with their terms.

201 § 9. Trust agreement.

202 In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust
203 agreement by and between the Authority and a corporate trustee, which may be any trust company or
204 bank having the powers of a trust company within or without the Commonwealth. The resolution
205 authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received,
206 but shall not convey or mortgage any parking facilities or any part thereof, and may contain such
207 provisions for protecting and enforcing the rights and remedies of the bondholders as may be
208 reasonable and proper and not in violation of law, including covenants setting forth the duties of the
209 Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair,
210 operation, and insurance of any parking facilities, the fixing and revising of rates, rentals, fees, and
211 charges, and the custody, safeguarding, and application of all moneys, and for the employment of
212 consulting engineers in connection with such construction, reconstruction, improvement, maintenance,
213 and operation. It shall be lawful for any bank or trust company incorporated under the laws of the
214 Commonwealth that may act as depository of the proceeds of bonds or of revenues to furnish such
215 indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or
216 trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and
217 may restrict the individual right of action by bondholders. Such resolution or trust agreement may
218 contain such other provisions in addition to the foregoing as the Authority may deem reasonable and
219 proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may
220 provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking
221 facilities or parts thereof to such officer, board, or depository as it may designate for the custody
222 thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may
223 determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement
224 may be treated as part of the cost of operation.

225 All pledges of revenues under the provisions of this act shall be valid and binding from the time
226 when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall
227 immediately be subject to the lien of such pledges without any physical delivery thereof or further
228 action, and the lien of such pledges shall be valid and binding as against all parties having claims of
229 any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have
230 notice thereof.

231 § 10. Trust funds.

232 All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be
233 held and applied solely as provided in this act. Any officer to whom, or bank, trust company, or fiscal
234 agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply
235 the same for the purposes hereof, subject to such regulations as this act and the resolution authorizing
236 the issuance of bonds or trust agreement securing such bonds may provide.

237 § 11. Remedies.

238 Any holder of revenue bonds issued under provisions of this act and the trustee under any trust
239 agreement, except to the extent the rights herein given may be restricted by the resolution authorizing
240 the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action,
241 mandamus, or other proceeding, protect and enforce any and all rights under the laws of the
242 Commonwealth or granted hereunder or under such resolution or trust agreement and may enforce and
243 compel the performance of all duties required by this act or by such resolution or trust agreement to be

performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, fees, and charges for the use of or for the services and facilities furnished by any parking facilities.

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety, and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitutes the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed pursuant to the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the Commonwealth.

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (i) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions, or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the Authority with respect to the same shall be governed by the provisions of this act in so far as the same may be applicable.

§ 14. Contributions.

The municipality is authorized to make contributions or advances to an Authority that it organizes under the provisions of this act, from any moneys that may be available for such purpose, to provide for the preliminary expenses of such Authority in carrying out the provisions of this act or to pay any item of cost of any parking facilities.

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution of the Authority at any regular or special meeting, and each such resolution of the Authority shall take effect immediately and need not be published or posted.

§ 16. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special, or local; however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

§ 17. Provisions of act severable.

The provisions of this act are severable; if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

§ 18. Construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof.