

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 589

*An Act to authorize the issuance of Commonwealth of Virginia Transportation Revenue Bonds, by and with the consent of the Governor pursuant to the provisions of Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1 of the Code of Virginia and as permitted by Section 9 (d) of Article X of the Constitution of Virginia, in a principal amount not exceeding \$49,143,000, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (including, without limitation, any original issue discount), for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs incurred or to be incurred for construction of an adequate, modern, safe, and efficient transportation system in that part of the Commonwealth that comprises the Haymarket Transportation Program; authorizing the Commonwealth Transportation Board to fix the details of such bonds and to provide for the sale of such bonds at public or private sale; providing for the pledge under a payment agreement with the Treasury Board of Transportation Trust Fund revenues, including funds which may be otherwise appropriated by the General Assembly; further providing that the interest income from such bonds shall be exempt from all taxation within the Commonwealth; to amend and reenact §§ 33.1-268, 33.1-269 and 33.1-277 of the Code of Virginia; and to amend the Code of Virginia by adding sections numbered 33.1-221.1:4 and 58.1-815.2, relating to creation of the Haymarket Transportation Program and amending the State Revenue Bond Act to include the Program.*

[H 1294]

Approved April 9, 1994

Whereas, Section 9 (d) of Article X of the Constitution of Virginia and §§ 33.1-267 through 33.1-295 of the Code of Virginia provide that the General Assembly may authorize the issuance of bonds secured by Transportation Trust Fund revenues under a payment agreement between the Commonwealth Transportation Board and the Treasury Board, subject to appropriations by the General Assembly and payable first from (i) revenues received from the Haymarket Transportation Program Fund; (ii) to the extent required, legally available revenues of the Transportation Trust Fund; and (iii) such other funds which may be appropriated by the General Assembly; and

Whereas, the projects described herein will be state highways operated and maintained by the Commonwealth Transportation Board as described in § 33.1-12; now, therefore,

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

**1. § 1. This act shall be known and may be cited as the "Haymarket Transportation Program, Commonwealth of Virginia Revenue Bond Act of 1994."**

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295 of the Code of Virginia, at one time or from time to time in one or more series, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Revenue Bonds, Series .....", in an aggregate principal amount not exceeding \$49,143,000, plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (including, without limitation, original issue discount) (the "Bonds"). The proceeds of such Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects which comprise the Haymarket Transportation Program as hereinafter defined and as established in Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, consisting of environmental and engineering studies, design, rights-of-way acquisition, construction and related improvements (the "projects"). Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects.

The following projects constitute the Haymarket Transportation Program and consist generally of the following: (i) improvements to the planned interchange on Interstate 66 at State Route 234 Bypass and to the existing interchange at U.S. Route 15; (ii) construction of a new Antioch Road interchange and a new public access connector road from the new Antioch Road interchange in an eastward direction to U.S. Route 15; and (iii) construction of a new interchange on Interstate 66 west of the existing interchange with U.S. Route 15 with a connection to the new Antioch Road interchange.

The Bonds shall be issued by the Commonwealth Transportation Board and sold through the Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth Transportation Board with respect to the Bonds. The Treasury Board's duties shall include the approval of the terms and structure of the Bonds.

§ 3. The proceeds of the Bonds herein authorized shall be made available by the Commonwealth Transportation Board to pay the costs of the projects and, where appropriate, may be paid to any authority, locality or commission for the purpose of paying for the costs of the projects. The proceeds of

*the Bonds may be used with any federal, local or private funds which may be made available for such purpose.*

*§ 4. The Bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding thirty years from their date or dates, as may be determined by the Commonwealth Transportation Board, or by a formula or method established by resolution of the Commonwealth Transportation Board, and may be made redeemable before their maturity or maturities, at such price or prices and under such terms and conditions as may be fixed by the Commonwealth Transportation Board prior to the issuance of the Bonds. The principal of and the interest on the Bonds shall be made payable in lawful money of the United States of America. The Commonwealth Transportation Board shall determine the form of the Bonds and fix the denomination or denominations of the Bonds and the place or places of payment of principal and interest thereof, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth.*

*All Bonds issued under the provisions of this Act shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.*

*The Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on the Bonds.*

*The Bonds may be sold at a public or private sale for such price or prices as the Commonwealth Transportation Board may determine to be in the best interests of the Commonwealth.*

*Anything in this Act to the contrary notwithstanding, the Bonds authorized hereby may be issued at one time or in part from time to time and may be issued and sold at the same time with other bonds of the Commonwealth Transportation Board as permitted by Section 9 (d) of Article X of the Constitution of Virginia, either as separate issues, as a combined issue designated "Commonwealth of Virginia Transportation Revenue Bonds, Series .....,," as a separate series of such combined issue, or as a combination of both.*

*§ 5. The Bonds shall be signed on behalf of the Commonwealth by the Commonwealth Transportation Commissioner or shall bear his facsimile signature, shall bear the official seal of the Board, and shall be attested by the Secretary or Assistant Secretary of the Board. Any interest coupons shall bear a facsimile of the signature of the Commonwealth Transportation Commissioner. In the event that the Bonds shall bear the facsimile signature of the Commonwealth Transportation Commissioner, the Bonds shall be signed by such administrative assistant as the Commonwealth Transportation Commissioner shall determine or by any Registrar/Paying Agent that may be designated by the Treasury Board. In case any officer, whose signature or a facsimile of whose signature appears on any Bonds or coupons, shall cease to be such officer before the delivery of such Bonds, his signature or facsimile signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery.*

*§ 6. All expenses incurred under this Act shall be paid from the proceeds of the Bonds or from any other available funds as the Commonwealth Transportation Board shall determine.*

*§ 7. Subject to the conditions set forth hereinafter in § 15, the Commonwealth Transportation Board is hereby authorized to borrow money at such rate or rates through the execution and issuance of notes of the Commonwealth for the same, but only in the following circumstances and under the following conditions:*

*a. In anticipation of the sale of the Bonds, the issuance of which shall have been authorized by the Commonwealth Transportation Board and shall have been approved by the Governor, if the Commonwealth Transportation Board shall deem it advisable to postpone the issuance of the Bonds.*

*b. For the renewal of any loan evidenced by notes herein authorized.*

*§ 8. The proceeds of the Bonds and of the bond anticipation notes herein authorized (except the proceeds of bonds, the issuance of which has been anticipated by such bond anticipation notes) shall be placed by the State Treasurer in a special fund in the state treasury, or with his concurrence may be placed in accordance with § 33.1-283, and shall be disbursed only for the purpose for which such Bonds and such bond anticipation notes shall be issued; however, proceeds derived from the sale of Bonds or renewal herein authorized shall be first used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of such Bonds and any renewals of such notes.*

*§ 9. The Commonwealth Transportation Board is hereby authorized to receive any other funds that may be made available to pay the cost of the projects and to make available the same to the payment of the principal of and the interest on the debt authorized hereby and to enter into the appropriate agreements to allow for these funds to be paid into the state treasury to pay a part of the cost of the projects or to pay the principal of and the interest on such debt.*

*§ 10. The Commonwealth Transportation Board, prior to the issuance of the Bonds, may establish a minimum reserve fund requirement for the Bonds.*

*§ 11. The Commonwealth Transportation Board, prior to the issuance of the Bonds, shall establish a sinking fund for the payment of the Bonds to the credit of which there shall be deposited such amounts as are required to pay debt service on the Bonds due and payable for such fiscal years first from (i) revenues received from the Haymarket Transportation Program Fund, (ii) to the extent required, legally*

available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly.

§ 12. Bond proceeds and moneys in any reserve funds and sinking funds shall be invested by the State Treasurer in accordance with the provisions of general law relating to the investment of such funds belonging to or in the control of the Commonwealth, or with the State Treasurer's concurrence by a trustee in accordance with § 33.1-283.

§ 13. The interest income from, but not any profit made on the sale of, the Bonds, notes and coupons, if any, issued under the provisions of this Act, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof.

§ 14. All Bonds and notes issued under the provisions of this Act are hereby made securities in which all of the following may properly and legally invest funds under their control: all public officers and bodies of the Commonwealth; all counties, cities, towns and municipal subdivisions; all insurance companies and associations; all savings banks and savings institutions, including savings and loan associations; administrators; guardians; executors; trustees; and other fiduciaries in the Commonwealth.

§ 15. a. The authority granted hereunder to the Commonwealth Transportation Board is expressly conditioned upon the approval by the Board of Supervisors of the County of Prince William of a rezoning of an area of at least 2000 acres, inclusive of a theme park, for a project which includes a proffer of a capital investment of at least \$400,000,000 in Virginia, as certified to the Commonwealth Transportation Board by the clerk of the Board of Supervisors of the County of Prince William or other appropriate county official.

b. The authority granted hereunder to the Commonwealth Transportation Board to issue Bonds to finance such projects is expressly conditioned upon the Governor's execution of a written agreement with the corporate parent (with a net worth in excess of \$1 billion) of the owner or operator to build a theme park that is part of a project described in subsection a of this section and such agreement shall contain the following provisions:

(1) In the first ninety days of the fifth full calendar year following the issuance of any Bonds hereunder but in no event later than the year 2002, and thereafter within ninety days after the close of each calendar year during which any such Bonds have been outstanding, such owner or operator, or corporate parent, if any, or any successor thereto or assignee thereof shall pay to the Haymarket Transportation Program Fund, subject only to events of force majeure as defined in such written agreement, an amount equal to the excess, if any, of (i) the lesser of (A) \$3,800,000 or (B) the principal of and interest on such Bonds paid during the immediately prior calendar year, over (ii) the revenue from the state sales and use tax imposed on or collected by such persons described in subdivision b (3) of this section pursuant to § 58.1-603 or § 58.1-604 of the Code of Virginia, or any successors thereto, and generated by such theme park, as certified by the Tax Commissioner, for the calendar year immediately prior to the date on which such computation is required to be made. Any payment made to the Commonwealth under this subdivision b (1) shall be referred to as a "Guarantee Payment";

(2) Such corporate parent shall be obligated to make any Guarantee Payment as described in subdivision b (1) of this section if and when any payment provided for under subdivision b (1) to the Commonwealth is not paid when due or if such theme park ceases to be operated by the initial operator thereof or any successor thereto or assignee thereof at any time while such Bonds remain outstanding, and in the event the corporate parent's net worth falls below \$1 billion, it shall provide a surety bond or equivalent credit instrument acceptable to the Commonwealth Transportation Board and approved by the Treasury Board in an amount sufficient to assure payment of any Guarantee Payment as described in subdivision b (1) at any time while such Bonds remain outstanding;

(3) For purposes of subdivision b (1) of this section, the sales and use tax revenue to be certified by the Tax Commissioner shall include only the sales tax collected on the theme park site, as identified in the site plan approved by the County in which such theme park is situated, by the owner or operator or by vendors independent from the owner or operator and authorized by the owner or operator to sell at retail on such theme park site;

(4) For a five-year period commencing on January 1 of the first full year following the year in which the theme park opens, but in no event later than January 1, 2002, the theme park owner or operator or its corporate parent, if any, shall receive a credit against any Guarantee Payment due hereunder in an amount of two times the amount specified under subdivision b (1) (i) (A). In no event, however, shall this credit amount be refundable;

(5) To the extent the theme park owner or operator or its corporate parent, if any, makes any Guarantee Payment to the Commonwealth and subsequent cumulative state sales and use tax revenues specified under subdivision b (1) (i) paid to the Commonwealth in any of the three calendar years following a calendar year in which a Guarantee Payment was made exceed the cumulative amount determined under subdivision b (1) (i) for the year with respect to which such computation was made, subject to appropriations by the General Assembly, an amount equal to such Guarantee Payments, if any, shall be paid to such owner or operator, or its corporate parent, if any, without interest. The passage of three calendar years after a calendar year in which a Guarantee Payment was made shall bar any reimbursement to the theme park owner or operator;

(6) Such written agreement between the corporate parent, its successors and assigns, and the Commonwealth shall also contain the following elements:

(i) The availability of land to the Commonwealth, at a cost not to exceed \$1.00 per annum, for a visitors' center to be constructed and operated by the Commonwealth near the main gate to the theme park. Access to the public who does not wish to enter the theme park shall be guaranteed to be free of charge;

(ii) Dedicated workforce training funds, subject to their appropriation, equal to \$600,000 annually shall be made available for the following fiscal years: 1997-1998, 1998-1999, and 1999-2000. Participation in statewide training programs shall be provided for thereafter on the same basis provided to other participants;

(iii) A dedicated cooperative advertising program equal to \$13,000,000, subject to its appropriation, shall be established for the 1996-1998 biennium, subject to an equivalent matching expenditure requirement by such owner, operator or corporate parent, to be administered by the Virginia Department of Economic Development, Division of Tourism. Participation in a cooperative advertising program shall be provided for thereafter on the same basis provided to other participants;

(7) Prior to its execution, the terms of the written agreement shall be presented to the Speaker of the House of Delegates, the President Pro Tempore of the Senate, the Chairmen of the House Finance Committee, the House Appropriations Committee, and the Senate Finance Committee; and

(8) The Auditor of Public Accounts shall be a signatory to the written agreement.

Notwithstanding the provisions of § 58.1-3 of the Code of Virginia, (i) the Tax Commissioner shall report, by April 1, 2001, and by April 1 of each fourth year thereafter while any Bonds to finance Haymarket Transportation Program projects remain outstanding, to the Governor, the Chairmen of the House Finance Committee, House Appropriations Committee and the Senate Finance Committee, and the Auditor of Public Accounts the total amount since the last such report, if any, paid to the Haymarket Transportation Program Fund or reimbursed as described in subdivision b (1) of this section and (ii) the persons described in subdivision b (3) of this section shall report, under procedures prescribed by the Tax Commissioner, all taxes paid or collected that are so attributable to the theme park site.

§ 16. The Commonwealth Transportation Board and Prince William County shall agree with respect to the timely provision of related signage, signals, and lighting at a cost not to exceed a total expenditure of \$10,414,000 from: (i) allocations from Prince William County's secondary road funds; (ii) an agreement between Prince William County and the Commonwealth Transportation Board wherein Prince William County agrees to pay or reimburse such expenditures; (iii) to the extent legally available, any excess bond proceeds; or (iv) the Northern Virginia Construction District's primary road funds.

**2. That §§ 33.1-268, 33.1-269 and 33.1-277 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 33.1-221.1:4 and 58.1-815.2 as follows:**

§ 33.1-221.1:4. Haymarket Transportation Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of the Commonwealth be addressed by a transportation program to provide for the costs of providing an adequate, modern, safe and efficient transportation network for the public in the Northern Virginia Transportation District which shall be known as the Haymarket Transportation Program (the Program), including, without limitation, environmental and engineering studies, design, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs and that the transportation improvements to be funded by such Program will provide important public benefits to the Commonwealth.

B. Allocations to this Program shall be made annually by the Commonwealth Transportation Board from the Haymarket Transportation Program Fund for the creation and enhancement of a safe, efficient transportation system connecting the communities, businesses, places of employment, and residences of the Commonwealth, thereby enhancing the economic development potential, employment, opportunities, mobility and quality of life in Virginia.

C. Allocations to the Program shall not diminish or replace allocations made from other sources or diminish allocations to which any district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that transportation improvements in Virginia may be accelerated and augmented. Allocations under this subsection shall be limited to projects specified in subsection F of this section.

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 E of this section.

E. The Commonwealth Transportation Board is authorized to receive, dedicate or use first from (i) revenues received from the Haymarket Transportation Program Fund, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly to the payment of bonds or other obligations, including interest thereon, in furtherance of the Program. No such bond or other obligations shall pledge the full faith

and credit of the Commonwealth.

*F. The Program consists of certain improvements in Northern Virginia, including, but not limited to, the following: (i) improvements to the planned interchange on Interstate 66 at State Route 234 Bypass and to the existing interchange at U.S. Route 15; (ii) construction of a new Antioch Road interchange and a new public access connector road from the new Antioch Road interchange in an eastward direction to U.S. Route 15; and (iii) construction of a new interchange on Interstate 66 west of the existing interchange with U.S. Route 15 with a connection to the new Antioch Road interchange.*

§ 33.1-268. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(1) The word "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 article to the Board shall be given by law.

(2) The word "project" or "projects" means any one or more of the following:

(a) York River Bridges, extending from a point within the Town of Yorktown in York County, or within York County across the York River to Gloucester Point or some point in Gloucester County.

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

(c), (d) [Reserved.]

(e) James River Bridge, from a point at or near Jamestown, in James City County, across the James River to a point in Surry County.

(f), (g) [Reserved.]

(h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

(i) [Reserved.]

(j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

(k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge and Primary Route 60.

(l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property, rights, easements and franchises relating to any of the foregoing projects and deemed necessary or convenient for the operation thereof and to include approaches thereto.

(m) The limited access highway between the Patrick Henry Airport area and the Newport News downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

(n) Dulles Access Road outer roadways, extending from a point on Route 7 in Loudoun County in an easterly direction to a point east of Route 123 on the Dulles Access Road in Fairfax County. These roadways are to be two or three lanes in each direction constructed adjacent to, and parallel to or extending west from, the Dulles Access Road.

(o), (p) [Repealed.]

(q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary highway transportation improvement district or transportation service district which the Board has agreed to finance under a contract with any such district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation made by the General Assembly for that purpose and payable first from revenues received under such contract or other local funding source, second, 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 is located or to the county or counties in which the project is located and third, to the extent required from other legally available revenues of the Trust Fund and from any other available source of funds.

(r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

(s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

(t) *The Haymarket Transportation Program as defined in § 33.1-221.1:4.*

(u) Any program for highways or mass transit or transportation facilities, endorsed by the local jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a "Transportation Improvement Program."

(3) The word "undertaking" means all of the projects authorized to be acquired or constructed under this article.

(4) The word "improvements" means such repairs, replacements, additions and betterments of and to 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.

(5) The term "cost of project" as applied to a project to be acquired by purchase or by condemnation, includes the purchase price or the amount of the award, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, cost of traffic estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, 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 herein authorized and the acquisition of the project and the placing of the project in operation.

(6) The term "cost of project" as applied to a project to be constructed, embraces the cost of construction, the cost of all lands, properties, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, cost of traffic estimates and of engineering data, engineering and legal expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized, the construction of the project, the placing of the project in operation and the condemnation of property necessary for such construction and operation.

(7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or associations having any title or interest in any property rights, easements or franchises authorized to be acquired by this article.

(8) [Repealed.]

(9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by the Board pursuant to this article, including, without limitation, legally available Trust Fund revenues.

(10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, 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 or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, 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 which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General

Assembly pursuant to § 58.1-816.1, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

*4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Haymarket Transportation Program Fund, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly;*

5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such projects;

6. Construct grade separations at intersections of any projects with public highways, streets or other public ways or places and change and adjust the lines and grades thereof so as to accommodate the same to the design of such grade separations, the cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be ascertained and paid by the Board as a part of the cost of the project;

7. Vacate or change the location of any portion of any public highway, street or other public way or place and reconstruct the same at such new location as the Board deems most favorable for the project and of substantially the same type and in as good condition as the original highway, streets, way or place, the cost of such reconstruction and any damage incurred in vacating or changing the location thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway, street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads and any damages awarded on account thereof may be paid by the Board as a part of the cost of the project;

8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county, or other political subdivision or public utility or public service corporation owning or operating the same in, on, along, over or under the project. Whenever the Board determines that it is necessary that any such public utility facilities should be relocated or removed, the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation shall relocate or remove the same in accordance with the order of the Board; however, the cost and expense of such relocation or removal, including the cost of installing such public utility facilities in a new location or locations, and the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal shall be ascertained and paid by the Board as a part of the cost of the project. The Commonwealth or such municipality, county, political subdivision, public utility or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances, in the new location or locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location or locations;

9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article; and

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia.

§ 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, 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 of Virginia is not obligated to

pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the 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 article 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 article 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 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (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 Commonwealth Transportation 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 or projects to be financed are located or to the county or counties in which such project or projects are located, (iii) from bond proceeds or earnings thereon, (iv) to the extent required, from other legally available revenues of the Trust Fund, and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the 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 article 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 article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund, 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 which shall have been appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1 projects as provided in § 33.1-268 (2) (s) shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly.

E. *Commonwealth of Virginia Transportation Revenue Bonds issued under this article for projects as provided in § 33.1-268 (2) (t) shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Such Bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from the Haymarket Transportation Program Fund, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly.*

F. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for projects defined in § 33.1-268 (2) (u) shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues from the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly.

§ 58.1-815.2. *Haymarket Transportation Program Fund.*

A. *There is hereby created in the Department of the Treasury a special nonreverting fund which*



*shall be a part of the Transportation Trust Fund and which shall be known as the Haymarket Transportation Program Fund, consisting of such funds as may be appropriated by the General Assembly from time to time and designated for this Fund and payments, if any, made to this Fund as provided by the Haymarket Transportation Program, Commonwealth of Virginia Revenue Bond Act of 1994. The amounts in the Haymarket Transportation Program Fund shall be used for the construction of state highways including the payment of principal and interest on any Commonwealth of Virginia Transportation Revenue Bonds issued to pay the cost of the projects which comprise the Haymarket Transportation Program as defined in § 33.1-221.1:4.*

*B. Allocations from this Fund shall be made annually by the Commonwealth Transportation Board for the purposes of the Haymarket Transportation Program as specified in § 33.1-221.1:4.*

**3. That if any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.**