

# 1994 SESSION

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## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend the Code of Virginia by adding in Title 56 a chapter numbered 21, consisting of  
3 sections numbered 56-553 through 56-572, relating to the Qualifying Transportation Facilities Act of  
4 1994.

5 [S 468]  
6 Approved  
7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 21, consisting  
9 of sections numbered 56-553 through 56-572, as follows:

### 10 CHAPTER 21. 11 QUALIFYING TRANSPORTATION FACILITIES ACT OF 1994.

12 § 56-553. Title.

13 This chapter may be cited as the "Qualifying Transportation Facilities Act of 1994."

14 § 56-554. Definitions.

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

16 "Affected local jurisdiction" means any county, city or town in which all or a portion of a qualifying  
17 transportation facility is located.

18 "Certificate" means the certificate of public convenience and necessity issued to an operator under  
19 this chapter that permits operation of a qualifying transportation facility.

20 "Comprehensive agreement" means the comprehensive agreement between the operator and the  
21 responsible public entity required by § 56-563 of this chapter.

22 "Operator" means the private entity that is responsible for operation of a qualifying transportation  
23 facility.

24 "Private entity" means any natural person, corporation, limited liability company, partnership, joint  
25 venture or other private business entity.

26 "Public entity" means the Commonwealth and any agency or authority thereof, any county, city or  
27 town and any other political subdivision of any of the foregoing.

28 "Qualifying transportation facility" means one or more transportation facilities operated by a private  
29 entity pursuant to this chapter.

30 "Regulatory authority" means the State Corporation Commission.

31 "Responsible public entity" means a public entity that has the power to acquire, construct or improve  
32 the applicable transportation facility.

33 "Revenues" means the user fees and/or service payments generated by a qualifying transportation  
34 facility.

35 "Service contract" means a contract entered into pursuant to § 56-558 of this chapter.

36 "Service payments" means payments to the operator of a qualifying transportation facility pursuant to  
37 a service contract.

38 "State" means the Commonwealth of Virginia.

39 "Transportation facility" means any road, bridge, tunnel, overpass, ferry, airport, seaport, mass  
40 transit facility or similar commercial facility used for the transportation of persons or goods, together  
41 with any other property that is needed to operate the same, but shall exclude railroads, railroad-related  
42 facilities and pipelines owned by a public service corporation and rail mass transit facilities owned by  
43 an interstate compact agency.

44 "User fees" mean the rates, fees or other charges imposed by the operator of a qualifying  
45 transportation facility for use of all or a portion of such qualifying transportation facility.

46 § 56-555. Policy.

47 A. The General Assembly finds that:

48 1. There is a public need for timely acquisition or construction of and improvements to  
49 transportation facilities within the Commonwealth;

50 2. Such public need may not be wholly satisfied by existing ways in which transportation facilities  
51 are acquired, constructed or improved; and

52 3. Authorizing private entities to acquire, construct, improve and/or operate one or more  
53 transportation facilities may result in the acquisition or construction of or improvements to  
54 transportation facilities in a more timely or less costly fashion, thereby serving the public safety and  
55 welfare.

56 B. An action, other than the approval of the responsible public entity under § 56-557 of this chapter  
57 or issuance of a certificate under § 56-559 of this chapter, shall serve the public purpose of this chapter

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58 if such action facilitates the timely acquisition or construction of or improvement to a qualifying  
 59 transportation facility or the continued operation of a qualifying transportation facility.

60 C. It is the intent of this chapter, among other things, to facilitate to the greatest extent possible, the  
 61 pooling and funding mechanisms of the Intermodal Surface Transportation Efficiency Act of 1991, to the  
 62 end that transportation financing be expanded and accelerated to improve and add to the convenience  
 63 of the public, and such that public and private entities may have the greatest possible flexibility in  
 64 contracting with each other for the provision of the public services which are the subject of this chapter.

65 D. This chapter shall be liberally construed in conformity with the purposes hereof.

66 § 56-556. Prerequisite for operation.

67 No private entity may operate a transportation facility under this chapter without first obtaining  
 68 approval of the responsible public entity, obtaining a certificate from the regulatory authority and  
 69 entering into a comprehensive agreement with the responsible public entity.

70 § 56-557. Approval of the responsible public entity.

71 A. Prior to the approval of the responsible public entity, the private entity shall provide the following  
 72 material and information with respect to the transportation facility or facilities that the private entity  
 73 proposes to operate as a qualifying transportation facility:

74 1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the  
 75 transportation facility or facilities;

76 2. A description of the transportation facility or facilities, including the conceptual design of such  
 77 facility or facilities and all proposed interconnections with other transportation facilities;

78 3. The projected cost of the transportation facility or facilities and the proposed date for acquisition  
 79 of or the beginning of construction of, or improvements to the transportation facility or facilities;

80 4. A statement setting forth the method by which the operator proposes to secure all property  
 81 interests required for the transportation facility or facilities, including: (i) the current owners of the  
 82 property needed for the transportation facility or facilities, (ii) the nature of the interest in the property  
 83 to be acquired, and (iii) any property that the responsible public entity is expected to be requested to  
 84 condemn;

85 5. Information relating to the current transportation plans, if any, of each affected local jurisdiction;

86 6. A list of all permits and approvals required for acquisition or construction of or improvements to  
 87 the transportation facility or facilities from local, state, or federal agencies and a projected schedule for  
 88 obtaining such permits and approvals;

89 7. A list of public utility facilities, if any, that will be crossed by the transportation facility or  
 90 facilities and a statement of the plans of the operator to accommodate such crossings;

91 8. A statement setting forth the operator's general plans for operation of the transportation facility or  
 92 facilities; and

93 9. Such additional material and information as the responsible public entity may reasonably request.

94 B. The responsible public entity shall grant approval if the operation of the transportation facility or  
 95 facilities as a qualifying transportation facility serves the public purpose of this chapter. The responsible  
 96 public entity may determine that the operation of the transportation facility or facilities as a qualifying  
 97 transportation facility serves such public purpose if:

98 1. The application is complete;

99 2. There is a public need for the transportation facility or facilities of the type the private entity  
 100 proposes to operate as a qualifying transportation facility;

101 3. The transportation facility or facilities and the proposed interconnections with existing  
 102 transportation facilities are compatible with the existing transportation plan for the State;

103 4. The estimated cost of the transportation facility or facilities is reasonable;

104 5. The private entity's plans will result in the timely acquisition or construction of or improvements  
 105 to the transportation facility or facilities or their more efficient operation; and

106 6. The operator's plan for operation of the transportation facility or facilities is reasonable and is  
 107 consistent with Commonwealth and local transportation plans.

108 C. The responsible public entity may charge a reasonable fee to cover the costs of processing and  
 109 reviewing the request for approval.

110 D. The approval of the responsible public entity shall be subject to the private entity's entering into  
 111 a comprehensive agreement with the responsible public entity.

112 E. In connection with its approval of the operation of the transportation facility or facilities as a  
 113 qualifying transportation facility, the responsible public entity shall establish a date for the acquisition  
 114 of or the beginning of construction of or improvements to the qualifying transportation facility. The  
 115 responsible public entity may extend such date from time to time.

116 § 56-558. Service contracts.

117 In addition to any authority otherwise conferred by law, any public entity may contract with an  
 118 operator for transportation services to be provided by a qualifying transportation facility in exchange

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119 for such service payments and other consideration as such public entity may deem appropriate.  
 120 § 56-559. Certificate of Public Convenience and Necessity.

121 A. It shall be unlawful for any private entity to construct, enlarge or acquire, by lease or otherwise,  
 122 any transportation facility without first having obtained a certificate from the regulatory authority that  
 123 the public convenience and necessity require the construction, enlargement or acquisition by the private  
 124 entity. The regulatory authority may issue the certificate if it finds that:

125 1. There is a public need for the construction, enlargement or acquisition of the transportation  
 126 facility by the private entity;

127 2. The cost estimates, choice of technology, construction plans and proposed manner of financing the  
 128 construction, enlargement or acquisition are reasonable;

129 3. There are no suitable alternatives to the proposed construction, enlargement or acquisition;

130 4. The private entity proposing the construction, enlargement or acquisition is viable, technically,  
 131 managerially and financially, to carry out the proposal;

132 5. The responsible public entity has approved the construction, enlargement or acquisition; and

133 6. The proposed construction, enlargement or acquisition is otherwise in the public interest when  
 134 compared to substantially similar construction, enlargement or acquisition of transportation facilities by  
 135 the responsible public entity.

136 B. The findings required by subsection A shall be made after notice and an opportunity for hearing  
 137 pursuant to § 12.1-28. The private entity proposing the construction, enlargement or acquisition shall  
 138 bear the burden of proof that the findings required by subsection A should be made, and the responsible  
 139 public entity shall appear and present evidence with respect to subdivisions 5 and 6 of subsection A.  
 140 The regulatory authority shall conduct a hearing if requested by more than 50 residents in the area of  
 141 the Commonwealth affected by the transportation facility or facilities.

142 C. If a certificate is issued pursuant to this section, it shall be the operator's duty to furnish  
 143 reasonably adequate service and facilities at reasonable user fees to any persons desiring to use the  
 144 transportation facilities, and to charge uniformly for the use of the transportation facilities all persons  
 145 using the facilities under like conditions. Upon issuance of a certificate, the operator shall be treated as  
 146 a public service corporation or public utility for purposes of §§ 56-35, 56-36, 56-249 and 56-253 and  
 147 Chapters 3, 4 and 5 of Title 56, and user fees shall be considered to be rates for purposes of §§ 56-40,  
 148 56-235, 56-236, 56-237, 56-237.1, 56-237.2 and 56-238.

149 D. In issuing the certificate, the regulatory authority shall set forth any reports that the operator  
 150 needs to file if the information or materials filed with the application change. Except for these reports,  
 151 the operator shall not be required to update the information or materials filed with the application.

152 E. The regulatory authority may charge a reasonable application fee to cover the costs of processing  
 153 and reviewing an application and may charge a reasonable annual fee to cover the costs of the  
 154 performance of its duties under this chapter.

155 § 56-560. Affected local jurisdictions.

156 A. Any private entity requesting approval from the responsible public entity or the issuance of a  
 157 certificate by the regulatory authority shall notify each affected local jurisdiction.

158 B. Each affected local jurisdiction may submit comments relating to a proposed qualifying  
 159 transportation facility to the responsible public entity or the regulatory authority.

160 § 56-561. Dedication of public property.

161 Any public entity may dedicate any property in which it has an interest for public use as a qualified  
 162 transportation facility if it finds that so doing would serve the public purpose of this chapter. In  
 163 connection with such dedication, such public entity may convey any interest that it has in such property,  
 164 subject to the conditions imposed by general law, to the operator, subject to the provisions of this  
 165 chapter, for such consideration as such public entity may determine. The aforementioned consideration  
 166 may include, without limitation, the agreement of the operator to operate the qualifying transportation  
 167 facility.

168 § 56-562. Powers and duties of the operator.

169 A. The operator shall have all power allowed by law generally to a private entity having the same  
 170 form of organization as the operator and shall have the power to operate the qualifying transportation  
 171 facility and impose user fees and/or enter into service contracts in connection with the use thereof. No  
 172 tolls or user fees may be imposed by the operator on any interstate highway and no tolls or user fees  
 173 may be imposed by the operator on any existing road, bridge, tunnel or overpass without the consent of  
 174 the affected local jurisdiction.

175 B. The operator may own, lease or acquire any other right to use or operate the qualifying  
 176 transportation facility.

177 C. Any financing of the qualifying transportation facility may be in such amounts and upon such  
 178 terms and conditions as may be determined by the operator. Without limiting the generality of the  
 179 foregoing, the operator may issue debt, equity or other securities or obligations, enter into sale and

**180** leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or  
**181** all of its property, including the certificate of authority, subject to the provisions of this chapter  
**182** regarding transfer of the certificate of authority.

**183** D. Subject to applicable permit requirements, the operator shall have the authority to cross any  
**184** canal or navigable watercourse so long as the crossing does not unreasonably interfere with then  
**185** current navigation and use of the waterway.

**186** E. In operating the qualifying transportation facility, the operator may:

- 187** 1. Make classifications according to reasonable categories for assessment of user fees; and
- 188** 2. With the consent of the responsible public entity, make and enforce reasonable rules to the same  
**189** extent that the responsible public entity could have made rules with respect to a similar transportation  
**190** facility.

**191** F. The powers granted to the operator in this section shall be subject to the power of the regulatory  
**192** authority to approve user fees pursuant to subsection C of § 56-559 of this chapter.

**193** G. The operator shall:

**194** 1. Acquire, construct or improve the qualifying transportation facility in a manner that meets the  
**195** engineering standards of the responsible public entity for transportation facilities operated and  
**196** maintained by such responsible public entity, all in accordance with the provisions of the comprehensive  
**197** agreement;

**198** 2. Keep the qualifying transportation facility open for use by the members of the public at all times  
**199** after its initial opening upon payment of the applicable user fees and/or service payments; provided that  
**200** the qualifying transportation facility may be temporarily closed because of emergencies or, with the  
**201** consent of the responsible public entity, to protect the safety of the public or for reasonable construction  
**202** or maintenance procedures;

**203** 3. Maintain, or provide by contract for the maintenance of, the qualifying transportation facility;

**204** 4. File with the regulatory authority: (i) reports describing material contracts with affiliates of the  
**205** operator, (ii) an accurate schedule of applicable user fees and/or service payments charged for use of  
**206** the qualifying transportation facility, and (iii) any other information required by the regulatory  
**207** authority; and

**208** 5. Cooperate with the responsible public entity in establishing any interconnection with the qualifying  
**209** transportation facility requested by the responsible public entity.

#### **210** § 56-563. Comprehensive agreement.

**211** A. Prior to acquiring or commencing construction of or improvements to the qualifying  
**212** transportation facility, the operator shall enter into a comprehensive agreement with the responsible  
**213** public entity. The comprehensive agreement shall provide for:

**214** 1. Delivery of performance and payment bonds in connection with the construction of or  
**215** improvements to the qualifying transportation facility, in the forms and amounts satisfactory to the  
**216** responsible public entity;

**217** 2. Review of plans and specifications for the qualifying transportation facility by the responsible  
**218** public entity and approval by the responsible public entity if the plans and specifications conform to  
**219** standard conditions of the responsible public entity;

**220** 3. Inspection of construction of or improvements to the qualifying transportation facility by the  
**221** responsible public entity to ensure that they conform to the engineering standards acceptable to the  
**222** responsible public entity;

**223** 4. Maintenance by the operator of a policy or policies of public liability insurance (copies of which  
**224** shall be filed with the responsible public entity accompanied by proofs of coverage), self-insurance, in  
**225** form and amount satisfactory to the responsible public entity and reasonably sufficient to insure  
**226** coverage of tort liability to the public and employees and to enable the continued operation of the  
**227** qualifying transportation facility;

**228** 5. Monitoring of the maintenance practices of the operator by the responsible public entity and the  
**229** taking of such actions as the responsible public entity finds appropriate to ensure that the qualifying  
**230** transportation facility is properly maintained; and

**231** 6. Reimbursement to be paid to the responsible public entity for its cost to provide the services  
**232** performed by the responsible public entity.

**233** B. In the comprehensive agreement, the responsible public entity may agree to make grants or loans  
**234** to the operator from time to time from amounts received from the federal government or any division  
**235** thereof.

**236** C. The comprehensive agreement shall incorporate the duties of the operator under this chapter and  
**237** may contain such other terms and conditions that the responsible public entity determines serve the  
**238** public purpose of this chapter. Without limitation, the comprehensive agreement may contain provisions  
**239** under which the responsible public entity agrees to provide notice of default and cure rights for the  
**240** benefit of the persons providing financing for the qualifying transportation facility. The comprehensive

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241 agreement may contain such other terms and conditions to which the operator and the responsible  
 242 public entity mutually agree.

243 § 56-564. Federal assistance.

244 The responsible public entity may take any action to obtain federal assistance for a qualifying  
 245 transportation facility that serves the public purpose of this chapter and may enter into any contracts  
 246 required to receive such federal assistance subject to appropriation by the General Assembly. The  
 247 responsible public entity may determine that it serves the public purpose of this chapter for all or any  
 248 portion of the costs of a qualifying transportation facility to be paid, directly or indirectly, from the  
 249 proceeds of a grant or loan made by the federal government or any division thereof.

250 § 56-565. Revocation of a certificate; remedies.

251 A. The regulatory authority may revoke a certificate for a qualifying transportation facility if:

252 1. A material default in the performance of the operator's duties under the comprehensive agreement  
 253 or under the service contract, if any, has occurred and is continuing;

254 2. Acquisition or construction of or improvement to the qualifying transportation facility has not  
 255 begun by the date established by the responsible public entity as such date has been extended;

256 3. For failure to provide reasonably adequate service and facilities at reasonable and uniform user  
 257 fees as provided by law; or

258 4. For failure to comply with any lawful order of the regulatory authority.

259 B. Prior to any revocation of a certificate the regulatory authority shall give written notice to the  
 260 operator and any person providing financing for the qualifying transportation facility, including any  
 261 trustee or agent for any person providing financing. The operator and the persons providing financing  
 262 for the qualifying transportation facility shall be entitled to a reasonable time period to cure the event  
 263 that could lead to a revocation of the certificate. Prior to any revocation of the certificate, the  
 264 regulatory authority shall conduct a hearing to determine if revocation of the certificate serves the  
 265 public purpose of this chapter. Any interested party shall be entitled to participate in such hearing,  
 266 subject to rules established by the regulatory authority that may limit the appearance of parties with  
 267 substantially identical interests.

268 C. Upon the revocation of a certificate of authority, the responsible public entity may exercise any or  
 269 all of the following remedies:

270 1. The responsible public entity may elect to take over the transportation facility or facilities and in  
 271 such case it shall succeed to all of the right, title and interest in such transportation facility or facilities,  
 272 subject to any liens on revenues previously granted by the operator to any person providing financing  
 273 therefor and the provisions of subsection D below. Any liens on the real estate and tangible property  
 274 comprising the transportation facility or facilities shall be deemed to be extinguished and shall be  
 275 released on request if the responsible public entity takes over the qualifying transportation facility  
 276 pursuant to this subsection.

277 2. Any responsible public entity having the power of condemnation under applicable law may  
 278 exercise such power of condemnation to acquire the qualifying transportation facility or facilities.  
 279 Nothing in this chapter shall be construed to limit the exercise of the power of condemnation by any  
 280 responsible public entity against a qualifying transportation facility after revocation of the certificate.  
 281 Any person that has provided financing for the qualifying transportation facility, and the operator, to  
 282 the extent of its capital investment, may participate in the condemnation proceedings with the standing  
 283 of a property owner.

284 3. The responsible public entity may exercise all other rights and remedies which may be available  
 285 to it at law or in equity.

286 D. In the event the responsible public entity elects to take over a qualifying transportation facility  
 287 pursuant to subsection C 1 of this section, the responsible public entity shall acquire, construct,  
 288 improve, operate and maintain the transportation facility, impose user fees for the use thereof and  
 289 comply with any service contracts as if it were the operator. User fees shall remain subject to approval  
 290 by the regulatory authority in accordance with the standards set forth in subsection C of § 56-559 and,  
 291 solely for such purpose, the regulatory authority shall retain jurisdiction over the qualifying  
 292 transportation facility. Any revenues that are subject to a lien shall be collected for the benefit of, and  
 293 paid to, secured parties, as their interests may appear, to the extent necessary to satisfy the operator's  
 294 obligations to secured parties, including the maintenance of reserves. Before such payments to or for the  
 295 benefit of secured parties, the responsible public entity may use revenues to pay current operation and  
 296 maintenance costs of the transportation facility or facilities, including compensation to the responsible  
 297 public entity for its services in operating and maintaining the qualifying transportation facility.  
 298 Remaining revenues, if any, after all such payments have been made or provided for in an amount not  
 299 to exceed an amount that will provide the operator with the rate of return on its capital investment  
 300 approved by the regulatory authority under § 56-559 of this chapter shall be paid to the operator over  
 301 the time period that the certificate would have been in place had it not been revoked. The right to

302 receive such payment, if any, shall be considered just compensation for the transportation facility or  
 303 facilities. The full faith and credit of the responsible public entity shall not be pledged to secure any  
 304 financing of the operator by the election to take over the qualifying transportation facility. Assumption  
 305 of operation of the qualifying transportation facility shall not obligate the responsible public entity to  
 306 pay any obligation of the operator from sources other than revenues.

307       § 56-566. Condemnation.

308       A. At the request of the operator, the responsible public entity may exercise any power of  
 309 condemnation that it has under law for the purpose of acquiring any lands or estates or interests  
 310 therein to the extent that the responsible public entity finds that such action serves the public purpose of  
 311 this chapter. Any amounts to be paid in any such condemnation proceeding shall be paid by the  
 312 operator.

313       B. Except as provided in subsection A of this section, until a certificate has been revoked, the power  
 314 of condemnation may not be exercised against a qualifying transportation facility.

315       C. After the certificate has been revoked, any responsible public entity having the power of  
 316 condemnation under law may exercise such power of condemnation as provided in subsection C 2 of  
 317 § 56-565 in lieu of, or at any time after taking over the transportation facility pursuant to subsection C  
 318 1 of § 56-565.

319       § 56-567. Utility crossings.

320       The operator and each public service company, public utility, railroad, and cable television provider,  
 321 whose facilities are to be crossed or affected shall cooperate fully with the other in planning and  
 322 arranging the manner of the crossing or relocation of the facilities. Any such entity possessing the  
 323 power of condemnation is hereby expressly granted such powers in connection with the moving or  
 324 relocation of facilities to be crossed by the qualifying transportation facility or that must be relocated to  
 325 the extent that such moving or relocation is made necessary or desirable by construction of or  
 326 improvements to the qualifying transportation facility, which shall be construed to include construction  
 327 of or improvements to temporary facilities for the purpose of providing service during the period of  
 328 construction or improvement. "Any amount to be paid for such crossing, construction, moving or  
 329 relocating of facilities shall be paid for by the operator." Should the operator and any such public  
 330 service company, public utility, railroad, and cable television provider not be able to agree upon a plan  
 331 for the crossing or relocation, the regulatory authority may determine the manner in which the crossing  
 332 or relocation is to be accomplished and any damages due arising out of the crossing or relocation. The  
 333 regulatory authority may employ expert engineers who shall examine the location and plans for such  
 334 crossing or relocation, hear any objections and consider modifications, and make a recommendation to  
 335 the regulatory authority. In such a case, the cost of the experts is to be borne by the operator.

336       § 56-568. Police powers; violations of law.

337       A. All police officers of the Commonwealth and of each local jurisdiction, shall have the same  
 338 powers and jurisdiction within the limits of such qualifying transportation facility as they have in their  
 339 respective areas of jurisdiction and such police officers shall have access to the qualifying  
 340 transportation facility at any time for the purpose of exercising such powers and jurisdiction. This  
 341 authority does not extend to the private offices, buildings, garages and other improvements of the  
 342 operator to any greater degree than the police power extends to any other private buildings and  
 343 improvements.

344       B. To the extent the transportation facility is a road, bridge, tunnel, overpass or similar  
 345 transportation facility for motor vehicles, the traffic and motor vehicle laws of the Commonwealth or, if  
 346 applicable, any local jurisdiction shall be the same as those applying to conduct on similar  
 347 transportation facilities in the Commonwealth. Punishment for offenses shall be as prescribed by law for  
 348 conduct occurring on similar transportation facilities in the Commonwealth.

349       § 56-569. Termination of certificate; dedication of assets.

350       The regulatory authority shall determine the date of termination of the original permanent financing  
 351 and shall terminate the operator's certificate on a date that shall not exceed ten years from the end of  
 352 the term of the original permanent financing. The regulatory authority may change the termination date  
 353 to take into account any refinancing of the original permanent financing, including any refinancing for  
 354 the purpose of expansion, or any early termination of the original permanent financing to the extent that  
 355 such modification serves the public purpose of this chapter. Upon the termination of the certificate, the  
 356 authority and duties of the operator under this chapter shall cease, and the qualifying transportation  
 357 facility shall be dedicated to the responsible public entity or, if the qualifying transportation facility was  
 358 initially dedicated by an affected local jurisdiction, to such affected local jurisdiction for public use.

359       § 56-570. Sovereign immunity.

360       Nothing in this chapter shall be construed as or deemed a waiver of the sovereign immunity of the  
 361 Commonwealth, any responsible public entity or any affected local jurisdiction with respect to the  
 362 participation in, or approval of all or any part of the qualifying transportation facility or its operation,

363 *including but not limited to interconnection of the qualifying transportation facility with any other*  
364 *transportation facility. Counties, cities and towns in which a qualifying transportation facility is located*  
365 *shall possess sovereign immunity with respect to its construction and operation.*

366     § 56-571. *Preservation of the Virginia Highway Corporation Act of 1988.*

367     *Nothing in this chapter shall be construed to repeal or change in any manner the Virginia Highway*  
368 *Corporation Act of 1988, as amended.*

369     § 56-572. *Severability.*

370     *If any provision of this chapter or the application thereof to any person or circumstances is held*  
371 *invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or*  
372 *applications of this chapter that can be given effect without the invalid provision or application, and to*  
373 *this end the provisions of this chapter are declared to be severable.*

374 **2. That the provisions of this act shall become effective July 1, 1995.**

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