

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 560

An Act to authorize the issuance of Commonwealth of Virginia Transportation Facilities Bonds, subject to the provisions of Section 9 (c) of Article X of the Constitution of Virginia, in an amount not to exceed \$45,170,000 plus amounts needed to fund issuance costs, reserve funds and other financing expenses, 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 the widening of the Dulles Toll Road, a revenue-producing capital project consisting of the construction of an additional two lanes from Interstate 495 in Fairfax County to Route 28 (Sully Road) in Loudoun County and certain improvements to the Wiehle Avenue interchange; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds and to provide for the sale of such bonds at public or private sale; to provide for the pledge of the net revenues of such capital project and the full faith, credit and taxing power of the Commonwealth for the payment of the principal of and the interest on such bonds; and to provide that such bonds shall be exempt from all taxation by the Commonwealth and any political subdivision thereof.

[H 1728]

Approved March 24, 1995

Whereas, Section 9 (c) of Article X of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including the enlargement or improvements thereof, of agencies administered solely by the executive department of the Commonwealth; and

Whereas, the facility described herein will be a toll road operated by the Virginia Department of Transportation, an agency administered solely by the executive department of the Commonwealth; and

Whereas, in accordance with the provisions of Section 9 (c) of Article X of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion as to the sufficiency of the anticipated net revenues of the Dulles Toll Road and any improvements thereon, to be pledged to the payment of the principal of and interest on such debt, and that such capital project complies with the requirements of Section 9 (c) of Article X of the Constitution of Virginia; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *This act shall be known and may be cited as the "Commonwealth of Virginia Transportation Facilities Bond Act of 1995."*

§ 2. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, subject to the provisions of Section 9 (c) of Article X of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Transportation Facilities Bonds, Series....," in an aggregate principal amount not exceeding \$45,170,000, plus amounts needed to fund issuance costs, reserve funds and other financing expenses. The proceeds of such bonds, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs incurred for the widening of the Dulles Toll Road, consisting of the construction of an additional two lanes, which will widen the road from six lanes to eight lanes, from Interstate 495 in Fairfax County to Route 28 (Sully Road) in Loudoun County and certain improvements to the Wiehle Avenue interchange.

§ 3. The proceeds of the bonds and any bond anticipation notes, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes, shall be deposited in a special capital outlay fund in the state treasury and shall be disbursed by the State Treasurer for paying all or any part of the cost of the acquisition, construction and equipping of said capital project in the amount provided above, plus issuance costs, reserve funds and other financing expenses.

§ 4. The bonds 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, and may be made redeemable before their maturity or maturities at such price or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor. The principal of, premium, if any, and the interest on the bonds shall be payable in lawful money of the United States of America. The Treasury Board shall determine the form of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal, premium, if any, and interest, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. The bonds may bear interest at such rate or rates subject to inclusion in gross income for federal income tax purposes as

may be determined by the Treasury Board by and with the consent of the Governor.

The bonds may be in registered form or as may be required by federal law in effect on the date of issuance. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and the principal of, premium, if any, and interest due thereon. Bonds issued in registered form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of the principal of, premium, if any, and interest on the bonds.

The Treasury Board may sell the bonds in such manner, at public or private sale, and for such price as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. The bonds may be sold at par or at premium or at a discount not greater than one percent of the principal amount of the bonds. If the bonds are sold at a discount, the Treasury Board is authorized to increase the principal amount of the bonds by not more than one percent to provide adequate proceeds to fund the capital project expenditures described in § 2 herein.

The bonds and the refunding bonds authorized hereby may be issued at one time or in part from time to time and may, in the discretion of the Treasury Board, be issued and sold at the same time with other general obligation bonds of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b) and (c) of the Constitution of Virginia, either as a separate issue or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds, Series", or as a combination of both.

The Treasury Board shall be authorized to supplement the special capital outlay fund in the state treasury created pursuant to § 3 hereof from excess moneys in any debt service, sinking or comparable fund established in connection with previous issues of transportation facilities bonds so long as such excess fund moneys are not otherwise restricted by law or by express contract with the holders of such prior bonds.

§ 5. The bonds shall be signed on behalf of the Commonwealth by the Governor, or shall bear his facsimile signature, and by the State Treasurer, or shall bear his facsimile signature, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds bear these facsimile signatures of the Treasurer, the bonds shall be signed by such administrative assistant as the State Treasurer shall determine, or by such registrar or paying agent as may be designated to sign such bonds by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds ceases to be such officer before the delivery of such bonds, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bond are the proper officers to sign such bond although, at the date of such bond, such persons may not have been such officers.

§ 6. All expenses incurred under this act shall be paid from the proceeds of the bonds, from payments made by the Virginia Department of Transportation or from any other available funds as the Treasury Board shall determine, including excess moneys in any debt service, sinking or comparable fund created in connection with prior issues of transportation facilities bonds to the extent not otherwise restricted by law or by contract with the holders of such prior bonds.

§ 7. The Treasury Board is hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of the bonds. Such bond anticipation notes shall be dated, shall mature at such time or times not exceeding five years from their date or dates, and may be redeemable before their maturity or maturities at such price or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor. Such bond anticipation notes shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or the State Treasurer, when authorized by the Treasury Board. Such bond anticipation notes shall be executed in the manner provided in § 5 hereof for the execution of bonds.

§ 8. Pending the application of the proceeds of the bonds and any bond anticipation notes to the purpose for which they have been authorized, all or any part of such proceeds may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds. Such investments shall be deemed at all times to be a part of such proceeds, and the interest thereon and any profit realized from such investments shall be credited to such proceeds and any losses shall be deducted therefrom.

§ 9. The General Assembly may from time to time authorize the issuance of additional bonds, in accordance with the Constitution of Virginia, secured by a pledge of the revenues of the Dulles Toll Road equal and ratable to the pledge of revenues which secures these bonds, the Transportation Facilities Refunding Bonds, Series 1987 A, the Transportation Facilities Bonds, Series 1989 A, and the Transportation Facilities Refunding Bonds, Series 1989 B.

§ 10. The Commonwealth Transportation Board is hereby authorized (i) to fix, revise, charge and collect rates, fees, tolls and other charges, including special rates for High Occupancy Vehicles, for or in connection with the use of the Dulles Toll Road and any improvements thereon, and the different parts of sections thereof and (ii) to pledge such rates, fees and charges remaining after payment of the expenses of operating and maintaining the project, to the payment of the principal of, premium, if any,

and interest on the bonds issued for such capital project.

§ 11. The net revenues of the Dulles Toll Road and the full faith, credit and taxing power of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on the bonds herein authorized. In the event the net revenues pledged hereby are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and the interest on the bonds herein authorized, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 12. The interest income on the bonds and bond anticipation notes issued under the provisions of this act shall at all times be exempt from taxation by the Commonwealth and by any county, city or town, or other political subdivision thereof.

§ 13. The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds of the Commonwealth, to be designated "Commonwealth of Virginia Transportation Facilities Bonds, Series" to refund any or all of the bonds issued under this act. No refunding bonds shall be issued in a principal amount exceeding that necessary to amortize the principal of and premium, if any, and interest on the bonds to be refunded and pay all issuance costs and other financing expenses of the refunding bonds. Such refunding bonds may be issued whether or not the bonds to be refunded are then subject to redemption. Such refunding bonds shall be issued and sold in the manner and subject to the limitations prescribed in § 4 hereof for the issuance and sale of bonds and shall be executed in the manner provided in § 5 hereof for the execution of bonds.

§ 14. Notwithstanding any other provisions of this act and to the extent permitted by law, the Commonwealth Transportation Board may provide for the additional improvements to the Dulles Toll Road and Dulles Access Road corridor (extending from Interstate 495 in Fairfax County to Route 28 (Sully Road) in Loudoun County) including, but not limited to, mass transit, including rail, and capacity-enhancing treatments, such as High Occupancy Vehicle lanes, interchange improvements, commuter parking lots and other transportation management strategies, from surplus net revenues of the Dulles Toll Road prior to provision being made for the retirement of all bonds issued under the provisions of this act.