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SENATE BILL NO. 251

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 33.2-2510 of the Code of Virginia, relating to the Northern Virginia Transportation Authority; pedestrian and bicyclist projects.

Patron—Surovell

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:**1. That § 33.2-2510 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-2510. Use of certain revenues by the Authority.**

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 33.2-2511 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. 1. Except as provided in ~~subdivision~~ *subdivisions 2 and 3*, 30 percent of the revenues received by the Authority under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of such fee and taxes received by the Authority. Of the revenues distributed pursuant to this subsection, as determined solely by the applicable locality, such revenues shall be used for additional urban or secondary highway construction, for other capital improvements that reduce congestion, for other transportation capital improvements that have been approved by the most recent long-range transportation plan adopted by the Authority, or for public transportation purposes. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2013. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

3. *Prior to the pro rata allocation pursuant to subdivision 1, 10 percent of the revenues allocated pursuant to this subsection shall be set aside to be used by the Authority for bicycle and pedestrian projects pursuant to subsection E.*

C. 1. The remaining 70 percent of the revenues received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely to fund transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with subdivision 1 of § 33.2-2500 and that have been rated in accordance with subdivision 2 of § 33.2-2500. ~~For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with subdivision 2 of § 33.2-2500 shall not apply.~~ The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (i) only in localities embraced by the Authority or (ii) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority.

2. *Prior to allocating revenues for projects pursuant to subdivision 1, 10 percent of the revenues allocated pursuant to this subsection shall be set aside to be used by the Authority for bicycle and pedestrian projects pursuant to subsection E.*

2. 3. Not less than 15 days prior to any decision by the Authority for the expenditure of funds pursuant to subdivision 1 for any project to create or improve any transportation facility, the Authority

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59 shall make the following publicly available: (i) the project evaluation pursuant to subdivision 2 of
60 § 33.2-2500, (ii) the total amount of funds from the Authority to be used for the project, (iii) the total
61 amount of funds from sources other than the Authority to be used for the project, and (iv) any other
62 rating or scoring of other factors to be taken into account by the Authority related to each such
63 transportation facility.

64 ~~3.~~ 4. All transportation projects undertaken by the Authority shall be completed by private
65 contractors accompanied by performance measurement standards, and all contracts shall contain a
66 provision granting the Authority the option to terminate the contract if contractors do not meet such
67 standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way
68 acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted
69 under the Public-Private Transportation Act (§ 33.2-1800 et seq.) whenever feasible and advantageous.
70 The Authority is independent of any state or local entity, including the Department and the
71 Commonwealth Transportation Board, but the Authority, the Department, and the Commonwealth
72 Transportation Board shall consult with one another to avoid duplication of efforts and, at the option of
73 the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the
74 request of the Authority, the Department may provide the Authority with engineering services or
75 right-of-way acquisition for the project with its own forces.

76 4. 5. With regard to the revenues distributed under subdivision 1, each locality's total long-term
77 benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the
78 Authority that are generated by or attributable to the locality divided by the total of such fees and taxes
79 received by the Authority.

80 D. For road construction and improvements pursuant to subsection B, the Department may, on a
81 reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction
82 services for projects funded in whole by the revenues provided to the locality by the Authority.

83 *E. The Authority shall use the revenues set aside pursuant to subdivision B 3 and C 2, along with 30*
84 *percent of any federal funds received pursuant to the federal Transportation Alternatives Program, for*
85 *projects that improve pedestrian or bicyclist safety or infrastructure not associated with any road*
86 *widening project. Any funds not allocated for bicycle or pedestrian safety projects in a given year shall*
87 *carry over to the next fiscal year to be used pursuant to this subsection. The Authority shall develop*
88 *objective criteria to rate, approve, and allocate funds pursuant to this subsection.*

89 **2. That no federal Transportation Alternatives Program funds allocated to the Commonwealth,**
90 **other than the funds used pursuant to subsection E of § 33.2-2510 of the Code of Virginia, as**
91 **amended by this act, shall be allocated for projects in the localities embraced by the Northern**
92 **Virginia Transportation Authority.**