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SENATE BILL NO. 617

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact § 33.2-1526.1 of the Code of Virginia, relating to Commonwealth Mass Transit Fund; Washington Metropolitan Area Transit Authority; budget; operating assistance.

Patron—Obenshain

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1526.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.

A. All funds deposited pursuant to § 33.2-1524.1 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to § 33.2-1526, shall be allocated as set forth in this section.

B. From funds available pursuant to subsection D, up to \$50 million shall be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide an amount equal to one-third of the funding provided by the Federal Transit Administration to the Washington Metropolitan Area Transit Authority. The funds provided by the Commonwealth shall not exceed the funds provided by the District of Columbia or the State of Maryland.

C. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

D. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following, except as provided in subsection E:

1. Twenty-four and one-half percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized 6 months prior to the fiscal year of implementation. The Washington Metropolitan Area Transit Authority (WMATA) and the commuter rail system jointly operated by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC), established pursuant to Chapter 19 (§ 33.2-1900 et seq.) shall not be eligible for an allocation of funds pursuant to this subdivision.

2. Seventeen percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. WMATA and the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.) shall not be eligible for an allocation of funds pursuant to this subdivision.

3. Three and one-half percent of funds may be allocated to NVTC for distribution to the commuter rail system jointly operated by NVTC and PRTC, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), for operating and capital purposes. The amount of funds distributed pursuant to this subdivision and the selection of systems receiving funds pursuant to this subdivision shall be based on service delivery factors including effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and shall be finalized six months prior to the fiscal year of implementation. Any funds remaining after such distribution shall be redistributed to subdivision 2.

4. Forty-six and one-half percent of the funds shall be allocated to the NVTC for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission. All allocations pursuant to this subdivision shall not exceed 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget. If the default allocation pursuant to this subdivision exceeds an amount equal to 50 percent of the total operating and capital assistance required to be provided by NVTC or other Virginia entities in the approved WMATA budget, the remaining funds shall be redistributed to subdivision 2. No contributions made to WMATA pursuant to § 33.2-3401 by the Commonwealth or NVTC shall be relevant for the purposes of administering this subdivision.

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59 5. Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program
60 established pursuant to § 33.2-1526.3.

61 6. Two and one-half percent of the funds shall be allocated for special programs, including ridesharing,
62 transportation demand management programs, experimental transit, public transportation promotion,
63 operation studies, and technical assistance, and may be allocated to any local governing body, planning
64 district commission, transportation district commission, or public transit corporation. Remaining funds may
65 also be used directly by the Department of Rail and Public Transportation to (i) finance a program
66 administered by the Department of Rail and Public Transportation designed to promote the use of public
67 transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of
68 development and implementation of projects with a purpose of enhancing the provision and use of public
69 transportation services.

70 E. The Board may consider the transfer of funds from subdivisions D 2 and 6 to subdivision D 1 in times
71 of statewide economic distress or statewide special need.

72 F. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the
73 Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from
74 year to year, provided that such balance shall not exceed five percent of revenues in a given biennium.

75 G. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of project
76 development, project administration, and project compliance incurred by the Department of Rail and Public
77 Transportation in implementing rail, public transportation, and congestion management grants and programs.

78 H. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA pursuant
79 to subdivision D 4 shall be credited to the Counties of Arlington, Fairfax, and Loudoun and the Cities of
80 Alexandria, Fairfax, and Falls Church. Funds allocated pursuant to this subsection shall be credited as
81 follows:

82 1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using
83 WMATA's capital formula shall be paid first by NVTC, which shall use 95 percent state aid for these
84 payments.

85 2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related
86 WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20
87 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of Loudoun
88 County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to
89 by NVTC on November 5, 1998, shall remain in effect.

90 I. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as defined
91 by P.L. 96-184.

92 J. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the
93 Department of Rail and Public Transportation directly to WMATA or to any other transportation entity that
94 has an agreement to provide funding to WMATA.

95 K. In any year that the total Virginia operating assistance in the approved WMATA budget increases by
96 more than three percent from the total operating assistance in the prior year's approved WMATA budget, the
97 Board shall withhold an amount equal to 35 percent of the funds available under subdivision D 4. The
98 following items shall not be included in the calculation of any WMATA budget increase: (i) any service,
99 equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project
100 approved by the WMATA Board before or after the effective date of this provision; (iii) any payments or
101 obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA
102 and any other person or entity, *except those arising from or related to any contract pertaining to employee*
103 *compensation and work conditions under the normal operation of WMATA*; and (iv) any service increases
104 approved by the WMATA Board.

105 L. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 if (i) any
106 alternate directors participate or take action at an official WMATA Board meeting or committee meeting as
107 Board directors for a WMATA compact member when both directors appointed by that same WMATA
108 compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA
109 Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

110 M. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless (i)
111 WMATA has adopted a detailed capital improvement program covering the current fiscal year and, at a
112 minimum, the next five fiscal years, and at least one public hearing on such capital improvement program has
113 been held in a locality embraced by the Northern Virginia Transportation Commission (NVTC), and (ii)
114 WMATA has adopted or updated a strategic plan within the preceding 36 months, and at least one public
115 hearing on such plan or updated plan has been held in a locality embraced by NVTC.

116 The strategic plan shall require (a) an assessment of state of good repair needs; (b) a review of the
117 performance of fixed-route bus service, including schedules, route design, connectivity, and vehicle sizes; (c)
118 an evaluation of opportunities to improve operating efficiency of the transit network, including reliability of
119 trips and travel speed; (d) an examination and identification of opportunities to share services where multiple

120 transit providers' services overlap; and (e) an examination of opportunities to improve service in underserved
121 areas.

122 N. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 4 unless
123 WMATA prepares and submits a proposed detailed annual operating budget and any proposed capital
124 expenditures and projects for the following fiscal year to the Board by April 1 of each year. The budget shall
125 include information on expenditures, indebtedness, pensions and other liabilities, and other information as
126 prescribed by the Board. Additionally such funds shall be withheld if the Commonwealth's and Northern
127 Virginia Transportation Commission's representatives to the WMATA Board of Directors and the WMATA
128 General Manager fail to annually address the Commonwealth Transportation Board regarding the WMATA
129 budget, system performance, and utilization of the Commonwealth's investment in the WMATA system.

130 O. The Board shall withhold 20 percent of the funds available pursuant to subdivision D 3 unless the
131 commuter rail system jointly operated by Northern Virginia Transportation Commission and the Potomac and
132 Rappahannock Transportation Commission, established pursuant to Chapter 19 (§ 33.2-1900 et seq.), submits
133 a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal
134 year to the Board by February 1 of each year. The operating plan and budget shall include information on
135 expenditures, indebtedness, and other information as prescribed by the Board.

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