

**REPORT OF THE VIRGINIA DEPARTMENT OF
TRANSPORTATION, DEPARTMENT OF THE
TREASURY, AND THE DEPARTMENT OF
TAXATION**

**Implementation of Regional
Taxing Authorities (Chapter
766, Enactment Clause 17.,
2013 Acts of Assembly)**

TO THE GENERAL ASSEMBLY OF VIRGINIA



HOUSE DOCUMENT NO. 16

**COMMONWEALTH OF VIRGINIA
RICHMOND
2013**



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
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Gregory A. Whirley
Commissioner

December 6, 2013

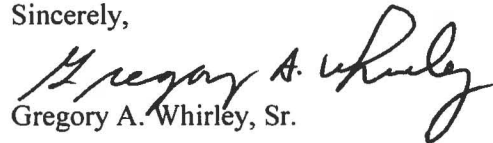
Members of the General Assembly

Dear Ladies and Gentlemen:

Chapter 766 of the 2013 Acts of Assembly, in the 17th enactment clause, directs the Virginia Department of Transportation, the Department of the Treasury, the Department of Taxation, and any other department or group necessary, to conduct a review of the implementation of the regional taxing authorities as provided by the act and issue a report and make recommendations, if any are necessary. The legislation specifically provides that the review shall be to determine what additional powers and authorities regional transportation authorities, commissions, etc., may need to ensure the proper utilization of the regional revenues, including whether bonding authority should be authorized if a local transportation entity does not already have such authority.

In accord with the requirements contained in the 17th enactment clause of Chapter 766, the attached report is hereby submitted on behalf of the Virginia Department of Transportation, the Department of the Treasury, and the Department of Tax. If you have any questions or need additional information, please let me know.

Sincerely,



Gregory A. Whirley, Sr.

Attachment

c: Craig M. Burns, Commissioner, Virginia Department of Taxation
Manju Ganeriwala, Treasurer, Commonwealth of Virginia
Dwight L. Farmer, PE, Executive Director, HRTPO
John Mason, Interim Executive Director, NVTA

INTRODUCTION

This report is submitted pursuant to Chapter 766 of the 2013 Acts of Assembly (HB 2313), which provides, in the 17th enactment clause:

That the Virginia Department of Transportation, the Department of the Treasury, the Department of Taxation, and any other department or group necessary shall conduct a review of the implementation of the regional taxing authorities as provided by this act. The purpose of such review shall be to determine what additional powers and authorities regional transportation authorities, commissions, etc., may need to ensure the proper utilization of the regional revenues. Such review shall include whether bonding authority should be authorized if a local transportation entity does not already have such authority. The departments shall issue and report and make recommendations, if any are necessary, to the General Assembly no later than December 1, 2013.

Entities that participated in the production of this report include the Virginia Department of Transportation, the Department of the Treasury, and the Department of Taxation (TAX). While the Hampton Roads Transportation Planning Organization (HRTPO) and Northern Virginia Transportation Authority (NVTA or Authority) were consulted for purposes of preparing this report, no representations are made as to their concurrence or agreement with the information or recommendations contained herein.

REGIONAL TRANSPORTATION FUNDING MEASURES

Revenue Sources:

Chapter 766 authorized and provided a variety of funding measures dedicated to transportation in the Commonwealth. In addition to providing for an array of statewide transportation funding measures, the legislation also made provision for several regional transportation funding measures. The regional funding measures and their implementation are the focus of this report.

Chapter 766 imposes additional taxes in planning districts that meet specific conditions as to population, registered vehicles and transit ridership.

Beginning July 1, 2013, if a Planning District, as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District, an additional state retail sales tax of 0.7 percent will be applied in the district's member localities. The additional tax will be charged beginning July 1 of any future year following a U.S. Census if a district then meets the identified criteria. The tax is not to apply to food purchased for human consumption. Currently, the criteria for the additional state sales tax have been satisfied in Planning District 8

(Northern Virginia)¹ and Planning District 23 (Hampton Roads)² and imposition of the sales tax in localities in these planning districts began on July 1, 2013.

The bill imposes a regional congestion relief fee in the form of an additional grantor's tax on the transfer or sale of realty at the rate of \$0.15 per \$100 valuation in any planning district that, as of January 1, 2013, has a population of two million or more, as shown by the most recent United States Census, has not less than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 50 million riders per year across all transit systems within the Planning District. Currently, the criteria for this additional grantor's tax have been satisfied in Planning District 8 and imposition of the tax in Planning District 8 localities began on July 1, 2013.

The bill also imposes a regional transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any room or space occupied in any county or city located in a Planning District that, as of January 1, 2013, has a population of two million or more, as shown by the most recent United States Census, has not less than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 50 million riders per year across all transit systems within the Planning District. Currently, the criteria for the regional transient occupancy tax have been satisfied by Planning District 8 and imposition of the tax in Planning District 8 localities began on July 1, 2013.

Additionally, the bill imposes an additional sales tax of 2.1 percent on gasoline/fuel in any planning district that, as of January 1, 2013, has a population of not less than 1.5 million but fewer than two million, as shown by the most recent United States Census, has not less than 1.2 million but fewer than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million but fewer than 50 million riders per year across all transit systems within the Planning District. Currently, the criteria for the additional sales tax on gasoline apply to Planning District 23 and imposition of the tax in Planning District 23 localities began on July 1, 2013. It is noted that the same or similar tax has been imposed in localities in Northern Virginia since 1982 based on legislation enacted in 1980 (Chapter 255, 1980 Acts of Assembly).

The legislation directs that all revenues generated from taxes imposed in Planning District 8 are to be deposited in the Northern Virginia Transportation Authority Fund, (NVTA Fund, a fund previously established by legislation), creates a special fund to receive the revenue generated by the regional taxes in Planning District 23 (Hampton Roads), and directs the creation of special funds for planning districts that meet the necessary criteria in future years.

¹ Planning District 8 (Northern Virginia) consists of the counties of Arlington, Fairfax, Loudoun and Prince William and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

² The following localities are located in Planning District 23 (Hampton Roads): the counties of Isle of Wight, James City, Southampton, and York and the cities of Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach. It should be noted that there are two voluntary members of the Planning District Commission for Planning District 23, Gloucester and Surry counties; however, these two localities do not fall under the purview of, and are not subject to the fees and taxes imposed by, Chapter 766 as they are not physically located *in* Planning District 23.

Expenditure of Revenues:

Generally, Chapter 766 directs regional expenditure of the revenues generated from the taxes imposed in the Planning District member localities.

Planning District 8

Revenues generated from the taxes imposed in Planning District 8, are to be deposited into the state treasury, credited to the Northern Virginia Transportation Authority Fund, along with any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source, and distributed to the Northern Virginia Transportation Authority.³ The Northern Virginia Transportation Authority is established by state law and has been granted broad authority to perform a variety of functions, including but not limited to: preparation of a regional transportation plan for Planning District 8; purchase, lease and/or operation of transportation facilities in the transportation plan; entering into contracts or agreements with the counties and cities embraced by the Authority, with any transportation authority, or with any state, local, private or federal entity for provision of transportation facilities and services to the area embraced by the Authority, (which, in turn, may be used by the Authority to finance the construction and operation of transportation facilities); and acquisition of land or any interest therein for certain transportation purposes/uses.⁴ The Authority, pursuant to § 15.2-4839, is authorized to issue bonds and other evidences of debt. Generally, the bonds issued by the Authority may be supported by any funds available, except that the use of funds from certain tolls is restricted. Generally, all moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 must be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

Thirty percent of the revenues received by the Authority are to be distributed to each locality in Planning District 8 on a pro rata basis, with each locality's share being the total of the fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of the fee and taxes received by the Authority (the "local share"). The new law requires that revenues received by localities must be used by the localities for additional urban or secondary road 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. Local share revenue may not be used to repay debt issued before July 1, 2013. Each locality is to provide the Northern Virginia Transportation Authority sufficient documentation each year as required by the Authority to show that the local share funds were used in accord with the law.

If a locality has not deposited into a 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

³ It is noted that because the Chapter 766 revenues resulting from imposition of regional taxes are state revenues and subject to appropriation, the revenues are distributed to VDOT for redistribution to the NVTA. VDOT merely serves as a "pass through" for the Chapter 766 revenues imposed in Planning District 8.

⁴ See the Northern Virginia Transportation Authority Act (Va. Code §15.2-4829 et. seq.)

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 Chapter 766 as local share must 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 items (i) or (ii), as applicable.⁵ The amount of any such reduction in revenue must be redistributed by the Authority (the “redistributed local share”). This requirement is ongoing and applies over annual periods as determined by the Authority.

The remaining 70 percent of the revenues received by the Authority plus any redistributed local share (“NVTAR Regional Revenues”) must be used by the Authority solely to fund (i) transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § 15.2-4830 and that have been rated in accord with § 33.1-13.03:1 or (ii) mass transit capital projects that increase capacity. For only those regional funds received in fiscal year 2014, the requirement for rating in accord with § 33.1-13.03:1 does not apply. The Authority is directed to give priority to projects that are expected to provide the greatest congestion reduction relative to the cost of the project and must document this information for each project selected. Projects selected by the Authority for funding must be located (a) only in localities embraced by the Authority or (b) 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. With regard to the 70 percent revenue share distributed by the Authority, each locality's total long-term benefit must be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.

Finally, the legislation provides that each county or city located in Planning District 8 as of January 1, 2013, must expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, between July 1, 2010, and June 30, 2013 (“Maintenance of Effort” (or “MOE”) requirement). In the event that any such county or city does not expend or disburse such an amount, that county or city is prohibited from being the direct beneficiary of any of the revenues generated by the state taxes or fees imposed solely in Planning Districts pursuant to Chapter 766 in the immediately succeeding year.⁶

Planning District 23

The legislation created the Hampton Roads Transportation Fund (HRTF), provides that the Fund is to be established on the books of the Comptroller and all revenues dedicated to the Fund pursuant to § 58.1-638 (additional 0.7 percent retail sales tax) and Chapter 22.1 (§ 58.1-2291 et seq.) of Title 58.1 (2.1 percent gasoline/fuel tax) are to be paid into the state treasury and

⁵ Section 58.1-3221.3 authorizes the governing body of any locality embraced by the Northern Virginia Transportation Authority to annually impose on commercial and industrial real property in the locality a real property tax at a rate not to exceed \$0.125 per \$100 of assessed value, to be used to support certain types of highway and transit projects.

⁶ Chapter 766, 2013 Acts of Assembly, 10th Enactment Clause.

deposited/credited to the Fund on a monthly basis. Interest earned on moneys in the Fund are to remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year do not revert to the general fund but remain in the Fund.⁷ The amounts deposited into the Fund and the distribution and expenditure of such amounts are not to be used to calculate or reduce the share of local, federal, or state revenues otherwise available to participating jurisdictions.

The moneys deposited in the HRTF must be used solely for new construction projects on new or existing roads, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Planning Organization. The Hampton Roads Transportation Planning Organization (HRTPO) is directed to give priority to those projects that are expected to provide the greatest impact on reducing congestion and must ensure that the moneys are used for such construction projects in all localities comprising Planning District 23. Unlike the NVTA, the HRTPO is a Metropolitan Planning Organization, a planning entity established pursuant to, and with the authorities granted by federal law, and to the extent not inconsistent with federal law, by state law, and as such, has no bonding authority.⁸

As with Planning District 8, the legislation provides that each county or city located in Planning District 23 as of January 1, 2013, must expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, between July 1, 2010, and June 30, 2013 (“Maintenance of Effort” (or “MOE”) requirement). In the event that any such county or city does not expend or disburse such an amount, that county or city is prohibited from being the direct beneficiary of any of the revenues generated by the state taxes or fees imposed solely in Planning Districts pursuant to Chapter 766 in the immediately succeeding year.⁹

Implementation Status and Issues:

Planning District 8

Revenue Projections:

Current estimates by the Virginia Department of Taxation, (which served as the basis for the Revised Fiscal Impact for Chapter 766, dated September 19, 2013) project total anticipated revenues from imposition of Chapter 766 taxes in Planning District 8 over the next five years (FY 2014 through FY 2018) to be approximately \$1.552 billion. Additional detail regarding the

⁷ It is noted that because the Chapter 766 revenues resulting from imposition of regional taxes are state revenues and subject to appropriation, the revenues are distributed to VDOT for redistribution to the HRTPO. In contrast to Chapter 766 revenues for Planning District 8, the revenues received from imposition of taxes in Planning District 23 are retained by VDOT for expenditure in accord with HRTPO direction.

⁸ See 23 U.S.C. §§134-135; Va. Code §§33.1-23.03:01 and 33.1-223.2:25.

⁹ Ibid. 10th Enactment Clause.

revenues attributable to each of the new taxes imposed in Planning District 8 localities is provided in the spreadsheet attached hereto as Attachment A.¹⁰

Project List:

The NVTA has taken significant steps toward implementation of Chapter 766. In June of 2013, the NVTA charged a working group, the Project Implementation Working Group (PIWG) with, among other things, the responsibility of establishing for FY2014, a recommended list of projects to be funded using Chapter 766 revenues, to include a list of projects to be funded using bonds. A process and criteria for the selection of FY2014 projects was developed and can be found on the NVTA website: <http://thenovaauthority.org>

After publishing and receiving public comment regarding projects proposed for inclusion in the NVTA's list of projects to be funded with NVTA Regional Revenues, the NVTA, in July 2013, approved a FY2014 regional multimodal projects list valued at approximately \$210 million to be funded with said revenues. All projects considered and ultimately placed on the FY2014 projects list came from the TransAction 2040 regional long range transportation plan which was approved by the NVTA in November, 2012. Of the projects on the list, a subset valued at approximately \$116 million will be funded as Pay as You Go projects while a second group of projects, valued at approximately \$94 million will be funded with Bonds. A final group of projects, valued at approximately \$153 million, has been classified as "Carryover Projects"; the projects in this group were recommended to not go forward as part of the FY2014 package but rather have been reserved for consideration in the development of the future six year program or other capital improvement programs by NVTA. Additional information and detail regarding specific projects that have been included in the FY2014 NVTA project list as well as projects in the Carryover Projects list can be found at the following link: http://thenovaauthority.org/PDFs/Press%20Releases/NVTA_MediaRelease_7.25.13.pdf

Bonds:

On July 24, 2013, in support of those projects on the NVTA FY2014 regional multimodal projects list to be funded with bonds, the NVTA took action necessary to authorize issuance of Northern Virginia Transportation Authority Transportation Facilities Revenue Bonds, in an amount not to exceed \$105 million, and to authorize a bond validation suit. The purpose of a bond validation suit is to obtain, from a court, a determination before the bonds are sold that they will be upheld as binding, valid and legally payable obligations. This process is often used by governmental entities to enhance the attractiveness of their bonds as investments and to protect taxpayers, bond investors and other businesses and entities that engage in project work being funded in whole or in part by the bonds. The suit protects the NVTA and its member jurisdictions by ensuring that the revenue stream identified to pay back the bonds is legal and is a

¹⁰ Attachment A is the official TAX revenue forecast. The forecast covers five years, FY 2014-2018. For six year planning purposes, VDOT confers with TAX to develop a forecast for the sixth year, FY 2019. The resulting six year revenue estimate for Chapter 766 taxes imposed in Planning District 8 over the next 6 years (FY2014 to FY2019) totals \$1.9 billion.

means of preempting future legal challenges to the bonds. The suit also ensures that all procedures associated with the imposition and implementation of taxes and fees as well as the project selection process are lawful.

The bond validation suit relating to bonds to be issued for projects backed by NVTA Regional Revenues was filed on July 25, 2013 in Fairfax County Circuit Court, and on October 11, 2013, a Final Order was issued, approving issuance of the Northern Virginia Transportation Authority Transportation Facilities Revenue Bonds. Time for appeal of the bond validation suit has expired, with no appeals being filed. It is also noted that the NVTA has, by letter dated August 8, 2013, requested that the Treasury Board of the Commonwealth of Virginia exempt bonds, notes and other financing arrangements to be issued or entered into by NVTA from review and approval by the Treasury Board pursuant to § 2.2-2416 (8) of the Code of Virginia. Formal action on the request has not been taken by the Board.

Implementation Issues:

- **Coordination with VDOT:** VDOT and the NVTA are working to finalize a Memorandum of Agreement that will address certain administrative issues associated with implementation of Chapter 766 and the funding dedicated to the NVTA Fund. Given the statutory nature and authority of the NVTA, the MOA between VDOT and the NVTA will require less detail than the MOA between VDOT and the HRTPO.
- **Maintenance of Effort by Localities:** The NVTA Technical Advisory Committee has been charged with addressing the Maintenance of Effort requirement of Chapter 766. Information has been collected from localities from which a baseline can be established for purposes of assessing the MOE, and agreements with each of the localities in Planning District 8 to ensure compliance with this requirement are under development. Among other things, the agreements may require a certification on the part of the locality's chief administrative officer that the locality has complied with the MOE requirement.
- **Costs of Administration:** The Code of Virginia appears to make provision for the NVTA to recoup administrative costs for the performance of its functions.¹¹

Recommendations:

Based on information received from the NVTA, and the broad authority currently granted to the Authority by statute, no recommendation to facilitate implementation of Chapter 766 in Planning District 8 is being offered.

¹¹ See Va. Code § 15.2-4835.

Planning District 23

Revenue Projections:

Current estimates by the Virginia Department of Taxation, (which served as the basis for the Revised Fiscal Impact for Chapter 766, dated September 19, 2013) project total anticipated revenues from imposition of Chapter 766 taxes in Planning District 23 over the next five years (FY 2014 through FY 2018) to be approximately \$1.025 billion. Additional detail regarding the revenues attributable to each of the new taxes imposed in Planning District 23 localities is provided in the spreadsheet attached hereto as Attachment A.¹²

Project List:

At its October 17, 2013 meeting, the Hampton Roads Transportation Planning Organization (HRTPO) Board was briefed by HRTPO staff on the HRTF list of candidate projects. Staff gave an overview of the guiding principles for the selection of candidate projects, specifying that projects should meet one or more of the following:

- Be included in the HRTPO Board Approved 2034 Long Range Transportation Plan (LRTP)
- Be Supported by HRTPO Resolutions
- Be Legally Eligible
- Meet the Regional Project Threshold Cost of \$100 Million

Based on these principles, HRTPO staff recommended a list of 9 candidate projects for the Board's support, which can be found at the following link: <http://hrtpo.org/news/index/view/id/358>. The HRTPO Board voted to support the candidate project list, and further approved the initiation of coordination and discussion with VDOT and FHWA to fund the HRTF package.

The HRTPO Board's support was formalized with a Resolution, which affirms that Chapter 766 funds must be spent on transportation projects that provide the greatest impact on reducing congestion and articulates the HRTPO's intent that the funds be utilized in the most effective and efficient manner and applied to regionally significant projects to reduce congestion for the benefit of the entire Planning District 23 Region. Further, in its resolution, the HRTPO Board resolved its support of the candidate projects to be funded in whole or in part with HRTF revenues, "in order to facilitate coordination between VDOT and FHWA to refine cost estimates, evaluate financing options and methods of project delivery."¹³

¹² Attachment A is the official TAX revenue forecast. The forecast covers five years, FY 2014-2018. For six year planning purposes, VDOT confers with TAX to develop a forecast for the sixth year, FY 2019. The resulting six year revenue estimate for Chapter 766 taxes imposed in Planning District 23 over the next 6 years (FY2014 to FY2019) totals \$1.3 billion.

¹³ See <http://hrtpo.org/uploads/docs/HRTPO%20Board%20Resolution%202013-09.pdf> for a copy of the October 17, 2013 Resolution.

Implementation Issues:

- **Coordination with VDOT:** The Virginia Department of Transportation (VDOT) and the HRTPO determined that it is necessary for the two entities to coordinate transportation planning and programming functions in order to ensure the most effective and efficient use and leveraging of revenues deposited into the HRTF and other state and federal transportation revenues and accordingly, shortly after Chapter 766 became effective, the two entities entered into a Memorandum of Agreement setting forth details and responsibilities of each entity with respect to implementation of Chapter 766 and administration of the HRTF (VDOT/HRTPO MOA). In general terms, the VDOT/HRTPO MOA provides that VDOT will serve as the fiscal agent for the HRTF, administering appropriation (budget authority) and expenditure processing for the Fund, that VDOT will incorporate the HRTPO allocation of HRTF funds into the annual update of the Six-Year Improvement Program (SYIP) and will provide to the HRTPO a schedule by January 31st of each year, establishing the deadlines by which allocation information shall be submitted for inclusion into the draft and final SYIPs each year. Further, VDOT will submit to the Commonwealth Transportation Board (CTB) monthly amendments to and transfers within the SYIP of HRTF funds as requested by the HRTPO, making advance copies of said amendments and transfers available to HRTPO at the time the information is made available to CTB members.

Under the VDOT /HRTPO MOA the HRTPO is to allocate the estimated revenues to projects in accord with the requirements of Va. Code § 33.1-23.5:3.¹⁴ The HRTPO will plan projects using a constrained planning process whereby projects to be funded by the HRTF must be supported by available allocations and cash and further, will monitor and oversee actual HRTF spending to ensure it is consistent with and in accord with Current Anticipated Cash Flow. HRTPO will incorporate the HRTF funds into the Constrained Long Range Planning process and financial constraint process and will maintain documentation relating to the use of revenues from the HRTF as required by Chapter 766 and in accord with sound accounting principles and practices. HRTPO will submit to VDOT the allocation information on HRTF funds for inclusion into the draft and final SYIPs during the annual update process by the deadlines established each year. The HRTPO will submit amendments to the SYIP and transfers of HRTF funds that are needed outside the annual SYIP update to VDOT for action by the CTB. HRTPO will incorporate projects funded by the HRTF into the Transportation Improvement Program (TIP) as required by federal law and regulations. HRTPO will submit these TIP changes to VDOT for inclusion into the Statewide Transportation Improvement Program.

- **Membership Disparity:** Implementation of Chapter 766 has presented unique issues in Planning District 23 due to the disparity in membership between the Planning District

¹⁴ The requirements are as follows: Moneys in the HRTF shall be used solely for new construction projects on new or existing roads, bridges, and tunnels in the localities comprising Planning District 23, as approved by HRTPO; priority shall be given to those projects that are expected to provide the greatest impact on reducing congestion; and HRTPO shall ensure that the moneys in the HRTF are used for such construction projects in all localities comprising Planning District 23 and shall produce annual reports reflecting all projects during the reporting period that were funded in whole or in part with moneys from the HRTF.

and the members of the Hampton Roads Transportation Planning Organization, the Metropolitan Planning Organization for the Hampton Roads Metropolitan Planning Area.¹⁵ In summary, Gloucester County is a member of the Hampton Roads Planning Area/HRTPO but is not located in the Planning District, while Southampton County and Franklin are embraced by/located in the Planning District but are not members of the Hampton Roads Metropolitan Planning Area/HRTPO.

Because the “authority” or membership of the HRTPO as an MPO does not extend to Southampton County and the City of Franklin, both localities in which the various Planning District 23 taxes have been imposed, special provision had to be made for expenditure and distribution of the funds deposited in the Hampton Roads Transportation Fund attributable to each of those localities. The VDOT/HRTPO MOA requires the HRTPO to establish a cooperative process consistent with state and federal requirements whereby all localities comprising Planning District 23 will have opportunity to participate in the process for selecting and prioritizing projects to be funded with moneys from the HRTF, which process will include but not be limited to establishment of voting rights for, and written agreements or memoranda of agreement with, localities in Planning District 23 that are not members of HRTPO. The MOA provides that the foregoing is required unless the boundaries of the metropolitan planning area for HRTPO are expanded to include those localities within Planning District 23 that are not currently members of the MPO and such localities are made members of HRTPO. Further, under the VDOT/HRTPO MOA, the HRTPO is required to enter into agreements with localities in Planning District 23 that are not members of HRTPO, as appropriate, to ensure agreement as to the roles and responsibilities of the parties with regard to planning, project selection, programming, project administration, project spending and HRTF administration.

In accord with the VDOT/HRTPO MOA, the HRTPO entered into separate agreements with Southampton County and Franklin, setting forth details as to administration of the HRTF funds collected in those two localities.¹⁶ More specifically, the HRTPO is required to establish “Fund set-asides” for each of the localities by maintaining information, received from the various state agencies responsible for collecting and depositing Chapter 766 Revenues into the Fund, relating to the portions of the Chapter 766 Revenues attributable to imposition/collection of Chapter 766 taxes in each of the localities and deposited into the Fund, and is to reserve sums equivalent to said portions of the Chapter 766 Revenues, to be expended for projects located in each locality, outside the boundaries of the Hampton Roads Metropolitan Planning Area. Each of the localities is entitled to one vote on actions of the HRTPO involving the allocation of funds for any project to be funded in whole or in part with Chapter 766 Revenues in the Fund set-asides

¹⁵ Members of the Hampton Roads Planning Area and MPO are Chesapeake, a portion of Gloucester County, Hampton, Isle of Wight County, James City County, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg, and York County while localities embraced by/located in Planning District 23 are the counties of Isle of Wight, James City, Southampton, and York and the cities of Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

¹⁶ It should be noted that the Federal Highway Administration was, by necessity, involved in establishment of the agreements between the HRTPO and Southampton County and Franklin, given the need to ensure compliance with federal requirements relating to HRTPO’s role as an MPO.

for the localities. Finally, each of the localities is to appoint one individual to represent it and exercise the right of the locality to vote on the allocation of Chapter 766 funds before the HRTPO. The representative must be an elected official appointed by the governing body of the locality. The representatives of the localities are to be invited to attend all meetings of the HRTPO in which any allocation of Chapter 766 Funds are to be discussed or otherwise considered and must be provided with all information and communications relating to said allocations that are provided to HRTPO members, and for those meetings in which projects receiving allocations of funds attributable to those specific localities are to be discussed or will be subjected to a vote, the representatives must be provided with all information and communications relating to said projects that are provided to the HRTPO members, and are to be allowed to participate in discussions relating to said projects. The agreements with the localities make it clear that, because Southampton and Franklin are not members of the HRTPO, the localities are not being provided any authority to participate as voting members in the federal planning processes conducted by the HRTPO in its capacity as an MPO, including processes such as development of the Transportation Improvement Program and Constrained Long Range Transportation Plan for the Hampton Roads Metropolitan Planning Area.

- Authority of the HRTPO to issue bonds: Currently, the HRTPO has no statutory authority to issue bonds or to enter into agreements with other entities for the purpose of utilizing Chapter 766 revenues to support or finance any form of debt. By resolution, the HRTPO Board has endorsed the HRTPO legislative agenda, which includes among other things, support for a “regional bonding authority for the Hampton Roads region.” It is not clear whether the role of the HRTPO, as an MPO, and the federal requirements associated with administration of MPO functions, would serve to prohibit the HRTPO’s issuance of bonds or execution of agreements with other entities for the purpose of utilizing state funds to support or finance debt, even if the Code of Virginia is modified to provide the HRTPO with such authority. This issue may warrant further review by and consultation with the Virginia Attorney General’s Office and/or the FHWA.
- Maintenance of Effort by Localities: As of the date of this report, the HRTPO is examining: (1) methods to establish a baseline for purposes of assessing the Maintenance of Effort requirement for each of the localities located in Planning District 23; and (2) possible means of assessing and administering/enforcing the requirement.

Recommendations:

The HRTPO’s role and functions as an MPO, as well as the disparity between the membership of the planning district and the HRTPO, have rendered implementation of Chapter 766 for Planning District 23 more complex and less effective than has been the case with implementation and administration of Chapter 766 for Planning District 8. Due to the HRTPO’s role as an MPO, the recommendations below are made with the caveat that guidance from the Virginia Attorney General’s Office, Bond Counsel and the FHWA will likely be necessary prior to legislating any such recommendation(s).

- Create an entity/authority for the purpose of implementing Chapter 766 in Planning District 23, with statutory duties and authorities similar to those set out for the NVTA pursuant to the Northern Virginia Transportation Authority Act set out in Chapter 48.2 of Title 15.2 (Va. Code §§ 15.2-4829 et. seq.). (The NVTA Act, as currently set out in statute, is provided in its entirety as Attachment B to this report.) While legislation establishing such entity/authority may need to be tailored to address unique issues associated with Planning District 23 revenues and expenditures, such legislation should address the following fundamental concepts:
 - Establish the composition of the entity, which for purposes of locality representation, should only include those localities located in Planning District 23;
 - Direct that Chapter 766 revenues generated in Planning District 23 localities and deposited in the HRTF be distributed to the entity/authority;
 - Authorize expenditure of the funds in the HRTF by the entity/authority in accord with statutory requirements;
 - Authorize the entity/authority to issue bonds and other evidences of debt and authorize use of Chapter 766 revenues to support such debt; and
 - Provide for recoupment or allocation of administrative expenses of the entity/authority.

The foregoing recommendations are intended to address the operational and administrative issues that have arisen during implementation and administration of Chapter 766 in Planning District 23, and are offered as “additional powers and authorities regional transportation authorities, commissions, etc may need to ensure the proper utilization of the regional revenues.” These recommendations are not intended to address policy issues that may have arisen with regard to Chapter 766 that do not fall within the purview of the review and report required pursuant to the 17th enactment clause.

CONCLUSION

It has only been five months since Chapter 766 went into effect. However, in reviewing the progress made by the two planning districts in which Chapter 766 has become effective and its revenue measures imposed, it appears evident that the NVTA type of structure is better suited to achieve the desired results. As stated in the recommendations above, an entity/authority, whose composition with regard to locality membership consists of only the planning district’s member jurisdictions, appears to be better suited to oversee and direct implementation and administration of the program. Further, such entity/ authority should have bonding authority to enable Chapter 766 regional revenues to be leveraged, thereby facilitating more immediate and effective use of the revenues and the support/funding of major construction projects.

HB2313 CTF Revenues - April 5, 2013 -- Without MEA						
	2014	2015	2016	2017	2018	5-Year Total
Replace 17.5 cents per gallon with 3.5% SUT on gasoline	\$412.0	\$470.1	\$482.0	\$493.2	\$501.6	\$2,358.9
Replace 17.5 cents per gallon with a 6% SUT on diesel	\$214.3	\$252.9	\$267.6	\$285.3	\$303.1	\$1,323.2
Eliminate 17.5 cents/gallon tax on motor fuel (gasoline and diesel)	(\$871.1)	(\$889.3)	(\$907.4)	(\$922.6)	(\$938.2)	(\$4,528.6)
0.3% SUT increase (5.3% total) on goods and services dedicated to transportation (excludes food)	\$265.8	\$301.2	\$313.2	\$325.2	\$336.3	\$1,541.7
\$64 Alternative Fuel Vehicle Fee	\$6.5	\$7.3	\$8.3	\$9.6	\$10.9	\$42.6
Increase titling tax from 3% to 4%, 4.05% in FY 15, 4.10% in FY 16, 4.15% in FY 17 and beyond	\$184.0	\$213.7	\$228.0	\$246.3	\$246.5	\$1,118.5
Incremental Sales Tax Commitment Over 5 Years (0.05% to 0.1%) (1)	\$49.0	\$101.7	\$105.6	\$109.6	\$113.3	\$479.1
1.6% increase on Gasoline (2)		\$89.6	\$220.5	\$225.5	\$229.2	\$764.8
Additional Funding for Transportation Statewide	\$260.5	\$547.2	\$717.8	\$772.1	\$802.7	\$3,100.2

(1) Incremental sales tax commitment remains at the FY15 rate of 0.1% if MEA is not passed. This is the marginal change, does not include 0.5% TTF

(2) The additional 1.6% increase in the SUT on gasoline takes effect January 1, 2015 if MEA is not passed.

HB2313 General Fund - April 5, 2013 -- Without MEA						
	2014	2015	2016	2017	2018	5-Year Total
Revenues						
Reduce Sales Tax -- Transportation (0.05% to 0.1%)	(49.0)	(101.7)	(105.6)	(109.6)	(113.3)	(479.2)
Reduce Sales Tax -- State Share of SoQ (0.125%)	(122.1)	(126.8)	(131.8)	(136.8)	(141.5)	(659.0)
Reduction in Unencumbered General Fund Revenues	(\$171.1)	(\$228.5)	(\$237.4)	(\$246.4)	(\$254.8)	(\$1,138.2)

Transfers

Increase Sales Tax to State Share of SoQ (0.125%)	122.1	126.8	131.8	136.8	141.5	659.0
Additional Funding for Education Statewide	\$122.1	\$126.8	\$131.8	\$136.8	\$141.5	\$659.0

NOVA Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Northern Virginia 0.7% L.O.S.T.	\$214.1	\$242.6	\$252.3	\$261.9	\$270.8	\$1,241.7
Northern Virginia Grantors Tax (\$0.15/\$100)	\$33.5	\$33.5	\$33.5	\$33.5	\$33.5	\$167.5
NOVA Transient Occupany Tax 2%	\$24.9	\$28.2	\$29.1	\$30.1	\$31.2	\$143.4
Total New Local Revenue NOVA	\$272.5	\$304.3	\$314.9	\$325.5	\$335.5	\$1,552.6

Hampton Roads Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Hampton Roads 0.7% L.O.S.T. - using planning district defintion	\$114.3	\$129.6	\$134.8	\$139.9	\$144.7	\$663.3
Hampton Roads 2.1% Fuels Sales Tax - using planning district defintion	\$62.1	\$71.4	\$73.8	\$76.3	\$78.4	\$362.0
Total New Local Revenue Hampton Roads	\$176.4	\$201.0	\$208.6	\$216.2	\$223.1	\$1,025.3

Notes:

This Attachment (A) reflects the official TAX revenue forecast. The forecast covers five years, FY 2014-2018. For six year planning purposes, VDOT confers with TAX to develop a forecast for the sixth year, FY 2019. The resulting six year revenue estimate for Chapter 766 taxes imposed in Planning District 8 over the next 6 years (FY2014 to FY2019) totals \$1.9 billion.

This Attachment (A) reflects the official TAX revenue forecast. The forecast covers five years, FY 2014-2018. For six year planning purposes, VDOT confers with TAX to develop a forecast for the sixth year, FY 2019. The resulting six year revenue estimate for Chapter 766 taxes imposed in Planning District 23 over the next 6 years (FY2014 to FY2019) totals \$1.3 billion.

ATTACHMENT B

Code of Virginia

§ 15.2-4829. Short title.

This chapter shall be known and may be cited as the Northern Virginia Transportation Authority Act.

(2002, c. 846.)

§ 15.2-4830. Authority created.

There is hereby created a political subdivision of the Commonwealth known as the Northern Virginia Transportation Authority, hereinafter known as "the Authority."

In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:

1. The Authority shall prepare a regional transportation plan for Planning District Eight, to include, but not necessarily be limited to, transportation improvements of regional significance, and those improvements necessary or incidental thereto, and shall from time to time revise and amend the plan. The provisions of Article 7 (§ 15.2-4527 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to preparation of such transportation plan.
2. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such transportation plan.
3. The Authority may enter into agreements or leases with public or private entities for the operation of its facilities, or may operate such facilities itself.
4. The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transportation commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any state, local, private or federal entity to provide, or cause to be provided, transportation facilities and services to the area embraced by the Authority. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transportation facilities and such contracts, agreements or leases shall inure to the benefit of any creditor of the Authority.

Notwithstanding the above, however, the Authority shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is expressly reserved to the municipalities within which taxicabs operate.

5. Notwithstanding any other provision of law to the contrary the Authority may:
 - a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation facilities thereon for use in connection with any transportation service;
 - b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted transportation plan;
 - c. Prepare a plan for mass transportation services with persons, cities, counties, agencies, authorities, or transportation commissions and may further contract with any such person or other entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

(2002, c. 846.)

§ 15.2-4831. Counties and cities embraced by the Authority.

The Authority shall embrace the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

(2002, c. 846.)

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of 17 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

Two members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

One member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Legislative members shall serve terms coincident with their terms of office. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the Authority: the Director of the Virginia Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; and the chief elected officer of one town in a county which the Authority embraces to be chosen by the Authority.

The Authority shall appoint the chairman and vice-chairman.

(2002, c. 846; 2004, c. 1000; 2008, c. 434.)

§ 15.2-4833. Staff.

The Authority shall employ a chief executive officer and such staff as it shall determine to be necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Authority. The Virginia Department of Transportation and the Virginia Department of Rail and Public Transportation shall make their employees available to assist the Authority, upon request.

(2002, c. 846.)

§ 15.2-4834. Decisions of Authority.

A majority of the Authority, which majority shall include at least a majority of the representatives of the counties and cities embraced by the Authority, shall constitute a quorum. Decisions of the Authority shall require a quorum and shall be in accordance with voting procedures established by the Authority. In all cases, decisions of the Authority shall require the affirmative vote of two-thirds of the members of the Authority present and voting, and two-thirds of the representatives of the counties and cities embraced by the Authority who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Authority; however, no motion to fund a specific facility or service shall fail because of this population criterion if such facility or service is not located or to be located or provided or to be provided within the county or city whose representative's sole negative vote caused the facility or service to fail to meet the population criterion. The population of counties and cities embraced by the Authority shall be the population as determined by the most recently preceding decennial census, except that on July 1 of the fifth year following such census, the population of each county and city shall be adjusted, based on population projections made by the Weldon Cooper Center for Public Service of the University of Virginia.

(2002, c. 846.)

§ 15.2-4835. Allocation of certain Authority expenses among component counties and cities.

The administrative expenses of the Authority, as provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties and cities on the basis of the relative population, as determined pursuant to § 15.2-4834. Such budget shall be limited solely to the administrative expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities and/or the performing of any transportation service.

(2002, c. 846.)

§ 15.2-4836. Payment to members of Authority.

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriations act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

(2002, c. 846; 2004, c. 1000.)

§ 15.2-4837. Formation of advisory committees.

The Authority shall have a technical advisory committee, consisting of nine individuals who reside or are employed in counties and cities embraced by the Authority and have experience in transportation planning, finance, engineering, construction, or management. Six members shall be appointed by local jurisdictions and three members shall be appointed by the chairman of the Commonwealth Transportation Board. The technical advisory committee shall advise and provide recommendations on the development of projects as required by § 15.2-4838 and funding strategies and other matters as directed by the Authority. The Authority also shall have a planning coordination advisory committee, which shall include, but not be limited to, at least one elected official from each town that is located in any county embraced by the Authority and receives street maintenance payments under § 33.1-41.1. The Authority may, in its discretion, form additional advisory committees.

(2002, c. 846.)

§ 15.2-4838. Responsibilities of Authority for long-range transportation planning.

A. The Authority shall be responsible for long-range transportation planning for regional transportation projects in Northern Virginia. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus, whenever possible, set regional transportation policies and priorities for regional transportation projects. The policies and priorities shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner.

B. The Authority shall report annually on (i) the allocation and expenditure of all moneys deposited to the Special Fund Account of the Northern Virginia Transportation Authority pursuant to subsection D of § 58.1-604.5; (ii) use of these moneys to reduce traffic congestion in the counties and cities described in subsections A and B of § 58.1-604.5; and (iii) use of these moneys to improve air quality in such counties and cities and in the Washington Metropolitan Area.

(2002, c. 846.)

§ 15.2-4838.01. Northern Virginia Transportation Authority Fund established.

There is hereby created in the state treasury a special nonreverting fund for Planning District 8 to be known as the Northern Virginia Transportation Authority Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742 shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Northern Virginia Transportation Authority as soon as practicable for use in accordance with § 15.2-4838.1. If the Authority determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to § 15.2-4838.1, the Authority may invest such excess moneys to the same extent as provided in § 33.1-23.03:5 for excess funds in the Transportation Trust Fund.

The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of local, federal, or state revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

(2013, c. 766.)

§ 15.2-4838.1. Use of certain revenues by the Authority.

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 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 2, 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 road construction; for other capital improvements that reduce congestion; for other transportation capital improvements which 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 Northern Virginia Transportation 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.

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 (i) transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § 15.2-4830 and that have been rated in accordance with § 33.1-13.03:1 or (ii) mass transit capital projects that increase capacity. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with § 33.1-13.03:1 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 (a) only in localities embraced by the Authority or (b) 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. All transportation projects undertaken by the Northern Virginia Transportation Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The

Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB), but the Authority, VDOT and CTB shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, VDOT may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces.

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

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

(2007, c. 896; 2009, cc. 410, 556; 2013, c. 766.)

§ 15.2-4839. Authority to issue bonds.

The Authority may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available except that funds from tolls collected pursuant to subdivision 7 of § 15.2-4840 shall be used only as provided in that subdivision.

(2002, c. 846; 2007, c. 896.)

§ 15.2-4840. Other duties and responsibilities of Authority.

In addition to other powers herein granted, the Authority shall have the following duties and responsibilities:

1. General oversight of regional programs involving mass transit or congestion mitigation, including, but not necessarily limited to, carpooling, vanpooling, and ridesharing;
2. Long-range regional planning, both financially constrained and unconstrained;
3. Recommending to state, regional, and federal agencies regional transportation priorities, including public-private transportation projects, and funding allocations;
4. Developing, in coordination with affected counties and cities, regional priorities and policies to improve air quality;
5. Allocating to priority regional transportation projects any funds made available to the Authority and, at the discretion of the Authority, directly overseeing such projects;
6. Recommending to the Commonwealth Transportation Board priority regional transportation projects for receipt of federal and state funds;
7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the Authority or solely with revenues under the control of the Authority in such a way as to increase the facility's traffic capacity, with the amount of any tolls variable by time of day, day of the week, vehicle size or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to be used for programs and projects that are reasonably related to or benefit the users of the applicable facility, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for such construction or reconstruction;
8. General oversight of regional transportation issues of a multijurisdictional nature, including but not limited to intelligent transportation systems, signalization, and preparation for and response to emergencies;
9. Serving as an advocate for the transportation needs of Northern Virginia before the state and federal governments;
10. Applying to and negotiating with the government of the United States, the Commonwealth of Virginia, or any agency, instrumentality, or political subdivision thereof, for grants and any other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this chapter subject, however, to any conditions upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance and/or operation of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); and

12. To decide and vote to impose certain fees and taxes authorized under law for imposition or assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and taxes shall be kept in a separate account and shall be used only for the purposes provided in this chapter.

(2002, c. 846; 2007, c. 896.)
