

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 105

An Act to amend and reenact § 33.1-70.01 of the Code of Virginia, relating to reimbursement by counties for certain cancelled highway projects.

[H 2045]

Approved March 13, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-70.01 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-70.01. Annual meeting with county officers; six-year plan for secondary highways; certain reimbursements required.

The governing body of each county in the secondary system may, jointly with the resident engineer for the Department of Transportation or other representatives of the Department as designated by the Commonwealth Transportation Commissioner, prepare a six-year plan for the improvements to the secondary highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan, the board of supervisors or other governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks, and posting notice of the proposed hearing at the front door of the courthouse of such county ten days before such meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department of Transportation, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following such discussion, the governing body, together with the representative of the Department of Transportation, shall finalize and officially adopt the six-year plan which shall then be considered the official plan of the county.

At least once in each calendar year representatives of the Department of Transportation in charge of the secondary system of highways in each county, or some representative of the Department designated by the Commonwealth Transportation Commissioner, shall meet with the governing body of each county in a regular or special meeting of such governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department of Transportation shall furnish the governing body with an updated estimate of funds and the board and the representative of the Department of Transportation shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority, and following generally the policies of the Commonwealth Transportation Board in regard to the statewide secondary highway system improvements. Such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure hereinbefore outlined, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department of Transportation, shall adopt, as official, a priority program for the ensuing year, and the Department of Transportation shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years, following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department of Transportation, shall update the six-year plan of such county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the governing body may request a revision in such six-year plan in order that such plan be amended to provide for the expenditure of such additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the governing body and the resident engineer or other representative of the Department of Transportation fail to agree upon a priority program, the governing body may appeal to the Commonwealth Transportation Commissioner. The Commissioner shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a governing body, with the concurrence of the representative of the Department of Transportation, from combining the public hearing required for revision of a six-year plan with the public hearing required for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary highway system, including those in the towns located in the county that are maintained as a part of the state secondary highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the Commonwealth Transportation Board has adopted the location and design for the project, such county shall reimburse the Board the net amount of all funds expended by the Board for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary road allocations pursuant to § 33.1-23.4 have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary allocation. The board may waive all or any portion of such reimbursement at its discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved road improvements.

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.