

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 303

*An Act to amend and reenact §§ 33.1-75.1 and 33.1-75.3 of the Code of Virginia and to repeal § 33.1-225.1 of the Code of Virginia, relating to use of federal revenue-sharing funds by localities for certain highway-related purposes.*

[H 1488]

Approved March 16, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 33.1-75.1 and 33.1-75.3 of the Code of Virginia are amended and reenacted as follows:**

§ 33.1-75.1. Special funds for systems in certain counties.

A. From, and as a first priority of, annual allocations of state funds for the maintenance, improvement, construction, or reconstruction of the systems of state highways, the Commonwealth Transportation Board shall make an equivalent matching allocation to any county for designations by the governing body of up to ~~twenty-five percent or \$500,000, whichever is greater, of funds received by it during the current fiscal year pursuant to the State and Local Fiscal Assistance Act of 1972, hereinafter referred to as "revenue sharing funds,"~~ in county general funds for use by the Commonwealth Transportation Board to construct, maintain or improve the primary and secondary highway systems within such county. Such funds ~~appropriated~~ allocated by the Commonwealth Transportation Board and such federal revenue sharing county funds shall be placed in special fund accounts of the Board and county, respectively, both to be known as the "..... County primary and secondary road fund," and shall be used solely for the purposes of either (i) maintaining, improving or constructing the primary and secondary highway systems within such county, or (ii) bringing subdivision streets, used as such prior to July 1, 1990, up to standards sufficient to qualify them for inclusion in the state primary and secondary system of highways. ~~The governing body may place an equivalent amount from county general funds in such fund in lieu of such federal revenue sharing funds.~~ After due consultation and exchange of recommendations with the Board, the governing body of such county shall determine what portion of such funds shall be used for construction, and what portion for maintenance or improvement, of primary and secondary roads in such county. That portion so designated by the governing body for construction shall be allocated to specific projects by the Board; that portion designated by the governing body for maintenance or improvement shall be allocated to specific roads by the governing body. The county shall pay over to the Board that amount of its special fund account needed for a project upon notice by the Board of its intent to proceed with the project. Projects identified by the board of supervisors for construction with ~~revenue sharing county general funds as provided in this section~~ need not be included in the county's six-year plan.

B. Upon indication by the resident engineer of a county that a project or projects funded pursuant to subsection A of this section cannot be implemented by the Department of Transportation within the fiscal year for which such revenue sharing funds have been allocated, the Department may contract with the county for the implementation of the project or projects by the county. Such contract may cover either a single project or may provide for the county's implementation of several projects during the fiscal year. Upon approval by the Department, the county may expend from its special fund created under subsection A of this section funds to undertake the implementation of a particular project or projects. The county will undertake implementation of the particular project or projects by obtaining the necessary permits from the Department of Transportation in order to ensure that the improvement is consistent with the Department's standards for such improvements.

C. Total state funds allocated statewide under this section shall not exceed \$10 million in any one fiscal year.

D. Notwithstanding the limitations specified in subsection A of this section, one month prior to the end of any fiscal year in which less than \$10 million has been allocated from state funds under this section, those counties requesting more than \$500,000 may be allowed an additional allocation. The difference between the amount first allocated and \$10 million shall be allocated at the discretion of the Commonwealth Transportation Board among the counties receiving the maximum allocation under subsection A of this section.

§ 33.1-75.3. Construction and improvement of primary or secondary highways by counties.

A. Notwithstanding any other provisions of this article, the governing body of any county may expend general revenues, ~~or revenues derived from the sale of bonds, or federal revenue sharing funds~~ for the purpose of constructing or improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. Project planning and the acquisition of rights-of-way shall be under the control and at the

direction of the county, subject to the approval of project plans and specifications by the Department of Transportation. All costs incurred by the Department of Transportation in administering such contracts shall be reimbursed from the county's general revenues; *or* from revenues derived from the sale of bonds; ~~or from the county's federal revenue sharing funds~~; or such costs may be charged against the funds which the county may be entitled to under the provisions of §§ 33.1-23.1, 33.1-23.2 or § 33.1-23.4.

B. Projects undertaken under the authority of subsection A of this section shall not diminish the funds to which a county may be entitled under the provisions of §§ 33.1-23.1, 33.1-23.2, 33.1-23.4, or § 33.1-75.1.

C. At the request of the county, the Department of Transportation may agree to undertake the design, right-of-way acquisition or construction of projects funded by the county. In such situations, the Department of Transportation and the county will enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction or contract administration of projects to be funded by the county. The county will reimburse the Department of Transportation for all costs incurred by the Department in carrying out the aforesaid activities from general revenues or revenues derived from the sale of bonds.

D. Notwithstanding any contrary provision of law, any county may undertake activities towards the design, land acquisition, or construction of primary or secondary highway projects that have been included in the six-year plan pursuant to § 33.1-70.01, or in the case of a primary highway, an approved project included in the six-year improvement program of the Commonwealth Transportation Board. In such situations, the Department of Transportation and the county shall enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, or contract administration of projects to be funded by the Department. Such activities shall be undertaken with the prior concurrence of the Department of Transportation, and the Department shall reimburse the county for expenses incurred in carrying out these activities. Such reimbursement shall be derived from primary or secondary highway funds which the county may be entitled to under the provisions of this chapter. The county may undertake these activities in accordance with all applicable county procedures, provided the Commissioner finds that those county procedures are substantially similar to departmental procedures and specifications.

**2. That § 33.1-225.1 of the Code of Virginia is repealed.**