

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 118

An Act to amend and reenact §§ 33.1-23.5:1 and 33.1-41.1 of the Code of Virginia, relating to payments to cities and certain towns for maintenance of certain highways; payments to counties that elect to withdraw from the secondary system of state highways.

[S 563]

Approved March 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.5:1 and 33.1-41.1 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-23.5:1. Funds for counties which have withdrawn or elect to withdraw from the secondary system of state highways.

Notwithstanding the provisions of § 33.1-23.5, pursuant to *subsection A of § 33.1-23.1 A*, the Commonwealth Transportation Board shall make the following payments to counties which have withdrawn or elect to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to any county having withdrawn prior to June 30, 1985, and having an area greater than 100 square miles, an amount equal to \$3,616 per lane-mile for fiscal year 1986, and to any county having an area less than 100 square miles, an amount equal to \$7,201 per lane-mile for fiscal year 1986; to any county that elects to withdraw after June 30, 1985, the Commonwealth Transportation Board shall establish a rate per lane-mile for the first year using (i) an amount for maintenance based on maintenance standards and unit costs used by the Department of Transportation to prepare its secondary system maintenance budget for the year in which the county withdraws, and (ii) an amount for administration equal to five percent of the maintenance figure determined in (i) above. The payment rates shall be adjusted annually by the Board in accordance with procedures established for adjusting payments to cities and towns under § 33.1-41.1, and lane mileage shall be adjusted annually to include (i) streets and highways accepted for maintenance in the county system by the local governing body, or (ii) streets and highways constructed according to standards set forth in the county subdivision ordinance or county thoroughfare plan, and being not less than the standards set by the Department of Transportation. Such counties shall, in addition, each receive for construction from funds allocated pursuant to *subdivision B 3 of § 33.1-23.1 B* 3 an annual amount calculated in the same manner as payments for construction in the state secondary highway system are calculated.

Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal year, and shall be reduced, in the case of each such county, by the amount of federal-aid construction funds credited to each such county.

The chief administrative officer of such counties receiving such funds shall make annual reports of expenditures to the Board, in such form as the Board shall prescribe, accounting for all expenditures, including delineation between construction and maintenance expenditures and reporting on their performance as specified in subdivision B 3 of § 33.1-23.02. Such reports shall be included in the scope of the annual audit of each county conducted by independent certified public accountants.

§ 33.1-41.1. Payments to cities and certain towns for maintenance of certain highways.

The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth Transportation Board, shall make payments for maintenance, construction, or reconstruction of highways, as hereinafter provided, to all cities and towns eligible for allocation of construction funds for urban highways under § 33.1-23.3. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department of Transportation. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions of this section are hereby confirmed.

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least ~~thirty~~ 50 feet wide and (ii) a hard-surface width of at least ~~thirty~~ 30 feet; or (b) has (i) an unrestricted right-of-way at least ~~eighty~~ 80 feet wide, (ii) a hard-surface width of at least ~~twenty-four~~ 24 feet, and (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at least ~~twenty-four~~ 24 feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way at least ~~forty~~ 40 feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of Transportation; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation or (ii) has

constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of ~~sixteen~~ 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than ~~thirty~~ 30 feet and a hard-surface width of not less than ~~sixteen~~ 16 feet; or (g) is a street functionally classified as a local street and constructed on or after January 1, 1996, which at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current edition of the subdivision street requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.); (h) is a street previously eligible to receive street payments that is located in a city having a population of at least 200,000 but no more than 250,000 and is closed to public travel, pursuant to legislation enacted by the governing body of the city in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

However, the Commissioner may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the local governing body and is to protect the quality of the affected local government's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner may prescribe.

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (i) principal and minor arterial roads and (ii) collector roads and local streets. Payments to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of highways in that locality. For the fiscal year 1986, payment to each city and town shall be an amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile for collector roads and local streets.

The Department of Transportation shall establish a statewide maintenance index of the unit costs for labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in that index to calculate and put into effect annual changes in the base per-lane-mile rate payable under this section.

The fund allocated by the Board shall be paid in equal sums in each quarter of the fiscal year, and no payment shall be made without the approval of the Board.

The *chief administrative officer of the city or town* receiving this fund shall make annual *categorical reports of expenditures to the Board*, in such form as the Board ~~may~~ shall prescribe, accounting for all expenditures ~~and~~, certifying that none of the money received has been expended for other than maintenance, construction or reconstruction of the streets, *and reporting on their performance as specified in subdivision B 3 of § 33.1-23.02*. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.