

042300492

HOUSE BILL NO. 1011

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 33.1-1, 33.1-2, 33.1-23.1, 33.1-23.2, 33.1-23.4, 33.1-23.5:1, 33.1-25, 33.1-34, 33.1-35, 33.1-39, 33.1-42, 33.1-44, 33.1-46.1, 33.1-46.2, as it is currently effective and as it may become effective, 33.1-46.4, 33.1-47, 33.1-47.1, 33.1-55, 33.1-56, 33.1-61, 33.1-67 through 33.1-69.2, 33.1-70.01, 33.1-70.1, 33.1-72.1, 33.1-75.1, 33.1-75.2, 33.1-75.3, 33.1-79, 33.1-84.1 through 33.1-88, 33.1-221.1:3, 33.1-268, 33.1-269, 33.1-277, 33.1-285.1, 33.1-416, 33.1-436, and 58.1-2259 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.001 and by adding sections numbered 33.1-23.03:3.1, 33.1-23.05, 33.1-23.3:1, and to repeal §§ 33.1-23.1:1, 33.1-23.1:2, 33.1-23.3, 33.1-23.5, , 33.1-30, 33.1-49 through 33.1-54, and 33.1-70.2 of the Code of Virginia, relating to membership and powers of the Commonwealth Transportation Board; division of the Commonwealth into regions for certain transportation purposes; the Northern Virginia Transportation District Program; the State Revenue Bond Act; and refunds of motor fuel taxes.

Patrons—Rust, Black and Dillard

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-1, 33.1-2, 33.1-23.1, 33.1-23.2, 33.1-23.4, 33.1-23.5:1, 33.1-25, 33.1-34, 33.1-35, 33.1-39, 33.1-42, 33.1-44, 33.1-46.1, 33.1-46.2, as it is currently effective and as it may become effective, 33.1-46.4, 33.1-47, 33.1-47.1, 33.1-55, 33.1-56, 33.1-61, 33.1-67, through 33.1-69.2, 33.1-70.01, 33.1-70.1, 33.1-72.1, 33.1-75.1, 33.1-75.2, 33.1-75.3, 33.1-79, 33.1-84.1 through 33.1-88, 33.1-221.1:3, 33.1-268, 33.1-269, 33.1-277, 33.1-285.1, 33.1-416, 33.1-436, and 58.1-2259 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.001 and by adding sections numbered 33.1-23.03:3.1, 33.1-23.05, 33.1-23.3:1 as follows:

§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; vacancies.

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of ~~seventeen~~ 15 members: the Secretary of Transportation, the Commonwealth Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and ~~fourteen~~ 12 citizen members. The citizen members shall be (i) appointed by the Governor as provided in § 33.1-2, (ii) subject to confirmation by the General Assembly, and (iii) removable from office during their respective terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until ~~thirty~~ 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No person shall be eligible to serve more than two successive terms of four years, other than the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director of the Department of Rail and Public Transportation. A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as Chairman of the Board. The Secretary shall have voting privileges only in the event of a tie. The Commonwealth Transportation Commissioner shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman. The Director of the Department of Rail and Public Transportation shall serve without a vote.

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" shall mean "Commonwealth Transportation Commissioner"; and all references to "Department of Highways and

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59 Transportation" shall refer to the Department of Transportation.

60 § 33.1-2. Residence requirements; statewide interest.

61 Of such Board, one member shall be a resident of the territory now included in the Bristol
62 construction district, one in the Salem construction district, one in the Lynchburg construction district,
63 one in the Staunton construction district, one in the Culpeper construction district, one in the
64 Fredericksburg construction district, one in the Richmond construction district, one in the Hampton
65 Roads construction district and one in the Northern Virginia construction district each of the seven
66 regions established in § 33.1-23.05. The remaining five members shall be appointed from the
67 Commonwealth at large, but at least two shall reside in standard metropolitan statistical areas and be
68 designated as urban at-large members, and at least two shall reside outside standard metropolitan
69 statistical areas and be designated as rural at-large members. The at-large members shall be appointed to
70 represent rural and urban transportation needs and be mindful of the concerns of seaports and seaport
71 users, airports and airport users, railways and railway users, and mass transit and mass transit users.
72 Each member so appointed shall be mindful of the best interest of the Commonwealth at large primarily
73 instead of those of the district from which chosen or of the transportation interest represented.

74 § 33.1-23.001. Definitions of statewide highway system, regional highway system, local highway
75 system, etc.

76 The following terms shall have the meanings ascribed to them whenever they appear in this Code,
77 unless another meaning is clearly apparent from the context:

78 "Local Highway System," "local system," and "local system of state highways" mean those highways
79 that are functionally classified as collector or local roadways pursuant to the federal functional
80 classification system but not part of the National Highway System or otherwise designated by the
81 Commonwealth Transportation Board.

82 "Regional Highway System," "regional system," and "regional system of state highways" mean those
83 highways in Virginia that are functionally classified as arterial roadways pursuant to the federal
84 functional classification system but not part of the National Highway System or otherwise designated by
85 the Commonwealth Transportation Board.

86 "Statewide Highway System," "statewide system," and "statewide system of state highways" mean
87 those highways in Virginia designated as components of the federally established National Highway
88 System or otherwise designated by the Commonwealth Transportation Board.

89 § 33.1-23.03:3.1. Virginia Highway Bridge Fund.

90 A. There is hereby established the Virginia Highway Bridge Fund. The Fund shall consist of all
91 federal highway bridge replacement and rehabilitation funds received by Virginia and shall be used for
92 construction, reconstruction, and replacement of highway bridges in the Commonwealth and allocated
93 by the Commonwealth Transportation Board to individual projects on the basis of the severity of each
94 bridge's deficiency.

95 B. A 20 percent match shall be provided from the allocation of highway system funds pursuant to
96 § 33.1-23.1 for any project that receives funds pursuant to subsection A of this section. Such match shall
97 be from the allocation to the highway system on which the bridge is located.

98 § 33.1-23.05. Localities comprising regions for allocations to regional highway system.

99 To facilitate the allocation of regional highway system, the Commonwealth shall be divided into
100 seven regions as follows:

101 The Northern Virginia Region, consisting of the Counties of Arlington, Fairfax, Loudoun, and Prince
102 William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park;

103 The Richmond/Petersburg Region, consisting of the Counties of Charles City, Chesterfield,
104 Dinwiddie, Goochland, Hanover, Henrico, New Kent, Powhatan, and Prince George and the Cities of
105 Colonial Heights, Hopewell, Petersburg, and Richmond;

106 The Hampton Roads Region, consisting of the Counties of Gloucester, Isle of Wight, James City, and
107 York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk,
108 and Virginia Beach;

109 The Shenandoah Region, consisting of the Counties of Allegheny, Augusta, Bath, Botetourt, Clarke,
110 Craig, Floyd, Frederick, Giles, Highland, Montgomery, Page, Pulaski, Roanoke, Rockbridge,
111 Shenandoah, and Warren and the Cities of Buena Vista, Covington, Harrisonburg, Lexington, Radford,
112 Roanoke, Salem, Staunton, Waynesboro, and Winchester;

113 The Rappahannock Region, consisting of the Counties of Accomack, Albemarle, Caroline, Culpeper,
114 Essex, Fauquier, Fluvanna, Greene, King George, King William, Lancaster, Louisa, Madison, Mathews,
115 Middlesex, Nelson, Northampton, Northumberland, Orange, Rappahannock, Richmond, Spotsylvania,
116 Stafford, and Westmoreland, and the Cities of Charlottesville and Fredericksburg;

117 The Southside Region, consisting of the Counties of Amelia, Amherst, Appomattox, Bedford,
118 Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Franklin, Greenville, Halifax, Henry,
119 Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Southampton, Surry, and
120 Sussex, and the Cities of Bedford, Danville, Emporia, Franklin, Lynchburg, and Martinsville; and

The Southwest Region, consisting of the Counties of Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, and Wise, and the Cities of Bristol, Galax, and Norton.

For the purposes of this title, "region" means one of the seven regions provided for in this section.

§ 33.1-23.1. Allocation of funds among highway systems.

A. The Commonwealth Transportation Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the interstate system of highways, the primary system of state highways, the secondary system of the statewide system, the regional system, and the local system of state highways and for city and town street maintenance payments made pursuant to § 33.1-41.1 and payments made to counties which have withdrawn or will elect not to withdraw from the secondary participate in the local system of state highways pursuant to § 33.1-23.5:1.

B. After funds are set aside for administrative and general expenses and pursuant to other provisions in this title which provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection A of this section, the Commonwealth Transportation Board shall allocate each year the remaining funds available for highway purposes, exclusive of federal highway bridge replacement and rehabilitation funds for the interstate system, among the several highway systems for construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the primary statewide system of state highways, including the arterial network, and in addition, an amount shall be allocated to the primary system as interstate matching funds as provided in subsection B of § 33.1-23.2.

2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to urban the regional system of state highways for state aid pursuant to § 33.1-44.

3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the secondary local system of state highways.

C. Notwithstanding the foregoing provisions of this section, the General Assembly may, through the general appropriations act, permit the Governor to increase the amounts to be allocated to highway maintenance, highway construction, either or both.

§ 33.1-23.2. Allocation of construction funds for statewide highway system.

A. The Commonwealth Transportation Board shall allocate such funds as are available under § 33.1-23.1 B 1 to the primary statewide system of state highways, including the arterial network, for construction and shall apportion such funds among the nine construction districts so that each construction district shall be allocated a share of such funds equal to the proportion that such construction district bears to the Commonwealth as a whole in terms of: vehicle-miles traveled on the primary system, primary road lane mileage and a primary road need factor which adjusts the weights in the allocation formula for the construction district with the largest under-allocation relative to primary needs, with vehicle-miles traveled weighted seventy percent, primary road lane mileage weighted twenty-five percent, and the primary road need factor weighted five percent at the project level, based on system priorities.

B. Out of each district's total allocation of primary funds pursuant to paragraph 1 of subsection B of § 33.1-23.1, the Board shall allocate all needed interstate federal-aid matching funds, up to a maximum of twenty-five percent of the district's primary allocation. Any additional interstate federal-aid matching funds needed in a district shall be allocated by the Board from the Interstate Federal-Aid Matching Fund established in § 33.1-23.1:2.

C. Notwithstanding subsection A other provisions of this section, the Board may provide for exceptionally heavy expenditures for repairs or replacements made necessary by highway damage resulting from accidents, severe weather conditions, acts of God or vandalism.

D. Such funds allocated to the primary statewide system shall, as far as possible, be allotted prior to the commencement of the fiscal year and public announcement made of such allotment but the Board shall not approve such allotment until after a public hearing at which political subdivisions of the Commonwealth and interested citizens may be heard.

In any case where any allotment of funds is made under this subsection to any county, all or a part of which subsequently is incorporated as or into a city or town, such allocation shall not be impaired thereby and the funds so allocated shall be expended as if such county or any part thereof had never become an incorporated city, but that portion of such city shall not be eligible to receive funds as a city during the same year it receives the funds allocated as a county or as any part of a county.

§ 33.1-23.3:1. Allocation of construction funds for regional highway system.

A. Such funds as are allocated to the regional system of state highways pursuant to § 33.1-23.1 B 2 shall be apportioned among the seven funding regions established in § 33.1-23.05 so that each funding

182 region receives a share of such funds equal to the proportion of registered vehicles in each funding
183 region to the total number of registered vehicles in the Commonwealth of Virginia.

184 B. The Commonwealth Transportation Board in coordination with metropolitan planning
185 organizations, planning district commissions, and other applicable regional entities shall allocate such
186 funds at the project level based on system priorities.

187 C. Before allocating funds under the foregoing provisions of this section, the Board may provide for
188 exceptionally heavy expenditures for repairs or replacements made necessary by highway damage
189 resulting from accidents, severe weather conditions, acts of God, or vandalism.

190 D. Funds allocated to the regional system shall, as far as possible, be allotted prior to the
191 commencement of the fiscal year and public announcement made of such allotment but the Board shall
192 not approve such allotment until after a public hearing at which political subdivisions of the
193 Commonwealth and interested citizens may be heard.

194 § 33.1-23.4. Allocation of construction funds within local highway system.

195 Such funds as are allocated to the ~~secondary~~ local system of state highways pursuant to ~~paragraph~~
196 ~~subdivision 3 of subsection B of § 33.1-23.1~~ shall be apportioned among the ~~several~~ counties in the
197 ~~secondary system, cities and towns having 5,000 or more inhabitants~~ by the Commonwealth
198 Transportation Board so that each such county shall be allocated a share of such funds equal to the in
199 the same proportion that such county bears to the Commonwealth as a whole in terms of area and
200 population with population being weighted 80 percent, and area being weighted 20 percent. For the
201 purpose of this section, "area" means the total land area of a county reduced by the area of any military
202 reservations and state or national parks or forests within its boundaries and such other similar areas and
203 facilities of five square miles in area or more, as may be determined by the Commonwealth
204 Transportation Board, city or town bears to all counties, cities, and towns receiving allocations under
205 this section in terms of the number of centerline miles of highway in the local system and the number of
206 registered vehicles, with centerline mileage weighted 86 percent and vehicle registrations weighted 14
207 percent. The county, city, or town shall allocate its share of such funds at the project level based on
208 system priorities.

209 For the purposes of this section, the term "population" shall mean either population according to the
210 latest United States census or the latest population estimate of the Center for Public Service of the
211 University of Virginia, whichever is more recent.

212 If so requested in a resolution adopted by the local governing body, funds allocated to any county
213 under this section may be used to support primary highway system construction projects within the
214 county.

215 Before allocating funds under the foregoing provisions of this section, the Board may provide for
216 exceptionally heavy expenditures for repairs or replacements made necessary by highway damage
217 resulting from accidents, severe weather conditions, acts of God or vandalism.

218 § 33.1-23.5:1. Funds for counties that have elected not to participate in the local system or elect to
219 withdraw from the local system of state highways.

220 As of July 1, 2004, Henrico and Arlington Counties shall be deemed to have elected not to
221 participate in the local system of state highways for purposes of maintenance.

222 Notwithstanding the provisions of ~~§ 33.1-23.5~~, pursuant Pursuant to § 33.1-23.1 A, the
223 Commonwealth Transportation Board shall make the following payments to counties which have
224 withdrawn or elect to withdraw from the secondary system of state highways under the provisions of
225 ~~§ 41 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to any~~
226 ~~county having withdrawn prior to June 30, 1985, and having an area greater than 100 square~~
227 ~~milesHenrico County, an amount equal to \$3,616 per lane-mile for fiscal year 1986, and to any county~~
228 ~~having an area less than 100 square milesArlington County, an amount equal to \$7,201 per lane-mile for~~
229 ~~fiscal year 1986; to any county that elects to withdraw from the local system on or after June 30, 1985~~
230 ~~July 1, 2004, the Commonwealth Transportation Board shall establish a rate per lane-mile for the first~~
231 ~~year using (i) an amount for maintenance based on maintenance standards and unit costs used by the~~
232 ~~Department of Transportation to prepare its secondary system maintenance budget for the year in which~~
233 ~~the county withdraws, and (ii) an amount for administration equal to five percent of the maintenance~~
234 ~~figure determined in (i) above. The payment rates shall be adjusted annually by the Board in accordance~~
235 ~~with procedures established for adjusting payments to cities and towns under § 33.1-41.1, and lane~~
236 ~~mileage shall be adjusted annually to include (i) streets and highways accepted for maintenance in the~~
237 ~~county system by the local governing body, or (ii) streets and highways constructed according to~~
238 ~~standards set forth in the county subdivision ordinance or county thoroughfare plan, and being not less~~
239 ~~than the standards set by the Department of Transportation. Such counties shall, in addition, each receive~~
240 ~~for construction from funds allocated pursuant to § 33.1-23.1 B 3 an annual amount calculated in the~~
241 ~~same manner as payments for construction in the state secondarylocal highway system are calculated.~~

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

credited to each such county.

§ 33.1-25. State highway system.

Except as the same shall be changed as hereinafter provided, the roads and bridges now comprising the State Highway System, sometimes referred to as the primary system of state highways, shall continue to constitute and be known as the State Highway System and the terms "State Highway System" or "~~primary system of state highways~~" when used elsewhere in this Code or in any other act or statute shall refer to and mean such State Highway System, ~~sometimes called the primary system of state highways~~, as so constituted ~~the statewide and regional highways systems~~. The term "State Highway System" shall not include the ~~secondary local highway system of state highways~~. The State Highway System shall be constructed and maintained by the State Commonwealth under the direction and supervision of the Commonwealth Transportation Board and the Commonwealth Transportation Commissioner.

§ 33.1-34. Transfer of roads from local highway system to regional and statewide highway systems; additions to statewide highway system.

The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board shall deem proper from the ~~secondary local highway system of state highways~~ to the ~~primary regional or statewide highway system of state highways~~; upon such transfer the roads, bridges and streets so transferred shall become for all purposes parts of the ~~primary regional or statewide highway system of state highways~~ and thereafter cease being parts of the ~~secondary local highway system of state highways~~. The Board may add such roads, bridges and streets as it shall deem proper to the ~~primary system regional or statewide systems~~. The total mileage of such roads, bridges and streets so transferred or added by the Board shall not, however, exceed ~~fifty~~ 50 miles during any one year.

§ 33.1-35. Transfer of roads, etc., from regional or statewide systems to local system.

The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board shall deem proper from the ~~primary system regional or statewide systems~~ of state highways to the ~~secondary local system of state highways~~; upon such transfer, the roads, bridges and streets so transferred shall become for all purposes parts of the ~~secondary local system of state highways~~ and thereafter cease being parts of the ~~primary regional or statewide system of state highways~~. The total mileage of such roads, bridges and streets so transferred by the Board shall not, however, exceed 150 miles during any one year.

No resolution for any such transfer shall be adopted until ~~(1)~~ (i) notice of intention to propose the same for adoption shall have been given for ~~sixty~~ 60 days to the governing body of each county, city and town in which is located any part of any such roads, bridges and streets proposed to be transferred; and ~~(2)~~ (ii) if any such governing body requests, a public hearing is held on such proposal.

§ 33.1-39. Bypasses through or around cities and towns.

The Commonwealth Transportation Commissioner may acquire by gift, purchase, exchange, condemnation or otherwise, such lands or interest therein, necessary or proper for the purpose, and may construct and improve thereon such bypasses or extensions and connections of the ~~primary system regional or statewide systems~~ of state highways through or around cities and ~~incorporated towns~~, as the Board may deem necessary for the uses of the State Highway System; provided, that the respective cities and the incorporated towns of ~~3,500~~ 5,000 population, or more, by action of their governing bodies agree to participate in accordance with the provisions of § 33.1-44 in all costs of such construction and improvement, including the cost of rights-of-way, on that portion of any such bypass or extension which is located within any such city or incorporated town. The maintenance of that portion of a bypass or extension located within a city or incorporated town shall be borne by the city or town. However, the Board shall contribute to such maintenance in accordance with the provisions of law governing its contribution to the maintenance of streets, roads and bridges in such cities and incorporated towns. The location, form and character of informational, regulatory and warning signs, curb and pavement or other markings and traffic signals installed or placed by any public authority shall be subject to the approval of the Commissioner. At both ends of bypasses through or around cities and incorporated towns the Commissioner shall erect and maintain adequate directional signs of sufficient size and suitable design to indicate clearly the main route or routes leading directly into such cities and incorporated towns.

Notwithstanding the ~~above foregoing provisions of this section~~, in any case where a municipality refuses to contribute to the construction of a bypass or an extension or connection of the ~~primary system regional or statewide systems~~ within said municipality the Commonwealth Transportation Commissioner may construct such bypass or extension and connection without any contribution by the municipality when the Board determines that such bypass or extension and connection is primarily rural in character and that the most desirable and economical location is within said municipality. Any bypass or extension and connection built under this provision shall be maintained by the Commissioner as a part of the primary system and the municipality shall receive no payment for such bypass or extension and

305 connection under § 33.1-41.1.

306 All the provisions of general law relating to the exercise of eminent domain by the Commissioner
307 shall be applicable to such bypasses, or extensions or connections of the ~~primary system~~ *regional or*
308 *statewide systems* of state highways.

309 The Board may expend out of funds appropriated to the Board under § 33.1-23.1 A and B 1 such
310 funds as may be necessary to carry out the provisions of this section.

311 § 33.1-42. Incorporation into state highway system of connecting streets and roads in certain other
312 towns and cities; maintenance, etc., costs.

313 The Commonwealth Transportation Board may, by and with the consent of the Governor and the
314 governing body of any incorporated town or city having a population of ~~3,500~~ *5,000* inhabitants or less,
315 incorporate in the State Highway System such streets and roads or portions thereof in such incorporated
316 town or city as may in its judgment be best for the handling of traffic through such town or city from
317 or to any road in the State Highway System and may, in its discretion, eliminate any of such roads or
318 streets or portions thereof from the State Highway System. Every such action of the Commonwealth
319 Transportation Board incorporating any such road or street or portion thereof in the State Highway
320 System or eliminating it therefrom, shall be recorded in its minutes.

321 Any such road or street or portion thereof in any such city or town so incorporated in the State
322 Highway System shall be subject to the rules, regulations and control of the state road authorities as are
323 other roads in the State Highway System. But such town or city shall be obligated to pay the
324 maintenance and construction and reconstruction costs of such roads or streets or portions thereof so
325 incorporated in the State Highway System in excess of the amounts authorized to be spent by the
326 Commonwealth Transportation Commissioner on such roads or streets.

327 Every provision in the charter of any such town or city insofar as it is in conflict with this section is
328 hereby repealed.

329 The Commonwealth Transportation Commissioner may in his discretion permit such town or city to
330 maintain any such road or street, or portion thereof, incorporated in the State Highway System, and
331 reimburse such city or town up to such amount as he is authorized to expend on the maintenance of
332 such road or street, or portion thereof.

333 § 33.1-44. Matching highway funds; funding of local system construction projects in cities and towns
334 with populations of 5,000 or more.

335 In any case in which an act of Congress requires that federal-aid highway funds made available for
336 the construction or improvement of federal or state highways be matched, the Commonwealth
337 Transportation Board shall contribute such matching funds. However, in the case of municipalities of
338 ~~3,500~~ *5,000* or more population eligible for an allocation of construction funds for urban highways
339 ~~under § 33.1-23.3 and the Town of Wise, the Town of Lebanon, and the Town of Altavista,~~ the Board
340 may contribute toward the cost of construction of any ~~federal-aid highway or street~~ *local system* project
341 ~~ninety-eight~~ *98* percent of the necessary funds, including the federal portion, if the municipality
342 contributes the other two percent, and provided further, that within such municipalities the Board may
343 contribute all the required funds on highways in the ~~interstate system~~ *statewide or regional systems*.

344 In the case of municipalities of ~~3,500~~ *5,000* or more population eligible for an allocation of construction
345 funds for urban highways under ~~§ 33.1-23.3 and the Town of Wise, the Town of Lebanon, and the~~
346 ~~Town of Altavista,~~ the Commonwealth Transportation Board may contribute toward the costs of
347 construction or improvement of any highway or street project for which no federal-aid highway funds
348 are made available ~~ninety-eight~~ *98* percent of the necessary funds if the municipality contributes the other
349 two percent.

350 For purposes of matching highway funds, such contributions shall continue to apply to such
351 municipality regardless of any subsequent change in population and shall cease to apply only when so
352 specifically provided by an act of the General Assembly. All actions taken prior to July 1, 2001, by
353 municipalities meeting the criteria of the foregoing provisions of this section are hereby confirmed.

354 In the case of municipalities of less than ~~3,500~~ *5,000* in population ~~that on June 30, 1985,~~
355 ~~maintained certain streets under § 33.1-80 as then in effect,~~ the Commonwealth Transportation Board
356 shall contribute toward the costs of construction or improvement of any ~~highway or street~~ *local system*
357 project 100 percent of the necessary funds. The contribution authorized by this paragraph shall be in
358 addition to any other contribution, and projects established in reference to municipalities of less than
359 ~~3,500~~ *5,000* in population shall not in any way be interpreted to change any other formula or manner for
360 the distribution of funds to such municipalities for construction, improvement or maintenance of
361 highways or streets. The Board may accept from a municipality, for right-of-way purposes, contributions
362 of real estate to be credited, at fair market value, against the matching obligation of such municipality
363 under the provisions of this section.

364 The term "construction or improvement" means the supervising, inspecting, actual building, and all
365 expenses incidental to the construction or reconstruction of a highway, including locating, surveying,
366 design and mapping, costs of rights-of-way, signs, signals and markings, elimination of hazards of

railroad grade crossings and expenses incidental to the relocation of any utility or its facilities owned by a municipality or by a public utility district or public utility authority.

If any municipality requesting such Commonwealth Transportation Board contribution subsequently decides to cancel such construction or improvement after the Board has initiated the project at the request of the municipality, such municipality 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 of initiation by the municipality and the date of cancellation. The Board shall have the authority to waive all or any portions of such reimbursement at its discretion.

For purposes of this section, on any construction or improvement project in any city having either a population of at least 130,000 but less than 150,000 or a population of at least 170,000 but less than 200,000 and funded in accordance with subdivision 2 3 of subsection B of § 33.1-23.1, the additional cost for placing aboveground utilities below ground may be paid from funds allocated for that project. The maximum cost due to this action shall not exceed ~~five~~\$5 million ~~dollars~~. Nothing contained herein shall relieve utility owners of their responsibilities and costs associated with the relocation of their facilities when required to accommodate a construction or improvement project.

§ 33.1-46.1. Highway aid to mass transit.

In allocating highway funds the Commonwealth Transportation Board may use such funds for highway aid to mass transit facilities when such use will best accomplish the purpose of serving the transportation needs of the greatest number of people.

Highway aid to mass transit may be accomplished (i) by using highway funds to aid in paying transit operating costs borne by localities and/or (ii) by acquisition or construction of transit-related highway facilities such as exclusive bus lanes, bus turn-outs, bus passenger shelters, fringe parking facilities, including necessary access roads, to promote transit use and relieve highway congestion, off-street parking facilities to permit exclusive use of curb lane by buses, and by permitting mass transit facilities to occupy highway median strips without the reimbursement required by § 33.1-97, all to the end that highway traffic may be relieved through the development of more efficient mass transit.

Expenditures of funds under the authority of this section shall be made from *statewide system* funds available for the construction of ~~state~~ *statewide system* highways *or regional system funds* within the ~~construction district~~ *funding region* in which the transit facilities are wholly or partly located.

The Board may at its discretion contract with the governing bodies comprising a transportation district, or in its discretion, other local governing bodies, for the accomplishment of a project to which funds have been allocated under the provisions of this section. Whenever such projects are being financed by advance annual allocation of funds, the Board may make such funds available to the contracting governing bodies in annual increments which may be used for other transit purposes until needed for the project for which allocated; however, the Board may require bond or other satisfactory assurance of final completion of the contract.

The Board may also, at the request of local governing bodies, use funds allocated for ~~urban highways or secondary roads~~ *the local highway system* within their jurisdiction to accomplish the purposes of this section.

The General Assembly may, through the general appropriation act, (i) provide for limits on the amounts or purposes of allocations made under this section and (ii) provide for the transfer of allocations from one eligible recipient to another.

§ 33.1-46.2. (For expiration date /- see note) Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the ~~interstate, primary, or secondary~~ *statewide, regional, or local* highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,
2. Law-enforcement vehicles,

428 3. Motorcycles,
429 4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,
430 b. Commuter buses and motor coaches operating under irregular route passenger certificates issued
431 under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or
432 as a common carrier of passengers under § 46.2-2075 or § 46.2-2080,
433 5. Vehicles of public utility companies operating in response to an emergency call,
434 6. Until July 1, 2006, vehicles bearing clean special fuel vehicle license plates issued pursuant to
435 § 46.2-749.3, or
436 7. Taxicabs having two or more occupants, including the driver.
437 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes
438 opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and
439 the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of
440 highway.
441 The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads
442 Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting
443 of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from
444 nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected
445 to be blocked for 10 minutes or longer. The HOV restrictions for the facility will be reinstated when the
446 general lane is no longer blocked and is available for use.
447 The Commissioner shall maintain necessary records to evaluate the effects of such openings on the
448 operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This
449 program will terminate if the Federal Highway Administration requires repayment of any federal
450 highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.
451 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing
452 body as the case may be, shall specify the hour or hours of each day of the week during which the
453 lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the
454 lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a
455 designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be
456 a moving violation and on conviction shall be fined \$50. However, violations committed within the
457 boundaries of Planning District Eight shall be punishable as follows:
458 For a first offense, by a fine of \$50;
459 For a second offense, by a fine of \$100;
460 For a third offense within a period of two years of the second offense, by a fine of \$250; and
461 For a fourth or subsequent offense within a period of three years of the second offense, by a fine of
462 \$500.
463 Upon a conviction under this section, the court shall furnish to the Commissioner of the Department
464 of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which
465 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
466 driver demerit points shall be assessed for any violation of this section.
467 C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of
468 failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy
469 vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of
470 this section, together with proof that the defendant was at the time of such violation the registered
471 owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of
472 the vehicle was the person who committed the violation. Such presumption shall be rebutted if the
473 registered owner of the vehicle testifies in open court under oath that he was not the operator of the
474 vehicle at the time of the violation. A summons for a violation of this section may be executed in
475 accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of
476 the vehicle is a rental or leasing company.
477 D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section
478 is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof
479 to the address of the owner of the vehicle as shown on the records of the Department of Motor
480 Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed
481 pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.
482 No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his
483 failure to appear on the return date of the summons.
484 E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3)
485 may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without
486 paying a toll.
487 F. Notwithstanding the contrary provisions of this section, the following conditions shall be met
488 before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to
489 HOV-3 or any more restrictive designation:

1. The Department shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.

2. The Department shall hold public hearings in the corridor to receive comments from the public.

3. The Department shall make a finding of the need for a change in such designation, based on public hearings and its internal data and present this finding to the Commonwealth Transportation Board for approval.

4. The Commonwealth Transportation Board shall make written findings and a decision based upon the following criteria:

a. Is changing the HOV-2 designation to HOV-3 in the public interest?

b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?

c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

G. [Repealed.]

§ 33.1-46.2. (For effective date /- See note) Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the ~~interstate, primary, or secondary~~ *statewide, regional, or local* highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,

2. Law-enforcement vehicles,

3. Motorcycles,

4. a. Transit and commuter buses designed to transport ~~sixteen~~ *16* or more passengers, including the driver,

b. Commuter buses and motor coaches operating under irregular route passenger certificates issued under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or as a common carrier of passengers under § 46.2-2075 or § 46.2-2080,

5. Vehicles of public utility companies operating in response to an emergency call,

6. Until July 1, 2004, vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3, or

7. Taxicabs having two or more occupants, including the driver.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for ~~ten~~ *10* minutes or longer. The HOV restrictions for the facility will be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing body as the case may be, shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the

lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be a moving violation and on conviction shall be fined ~~fifty dollars~~ \$50. However, violations committed within the boundaries of Planning District Eight shall be punishable as follows:

For a first offense, by a fine of \$50;

For a second offense, by a fine of \$100;

For a third offense within a period of two years of the second offense, by a fine of \$250; and

For a fourth or subsequent offense within a period of three years of the second offense, by a fine of \$500.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. Notwithstanding the contrary provisions of this section, the following conditions shall be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to HOV-3 or any more restrictive designation:

1. The Department shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.

2. The Department shall hold public hearings in the corridor to receive comments from the public.

3. The Department shall make a finding of the need for a change in such designation, based on public hearings and its internal data and present this finding to the Commonwealth Transportation Board for approval.

4. The Commonwealth Transportation Board shall make written findings and a decision based upon the following criteria:

a. Is changing the HOV-2 designation to HOV-3 in the public interest?

b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?

c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

G. [Repealed].

§ 33.1-46.4. Counties may perform certain maintenance.

Any county may enter into an agreement with the Department of Transportation to permit the county to landscape and maintain any or all medians and other nontraveled portions of ~~primary roads statewide~~ *and regional highway system highways* located in the county.

§ 33.1-47. Approval of markings and traffic lights erected by towns.

Notwithstanding any provision of law contrary to this section, all markings and traffic lights installed or erected by towns on the ~~primary roads statewide or regional highway system highways~~ therein maintained by the Department of Transportation shall first be approved by the Commissioner.

§ 33.1-47.1. Landscape studies for local highway system construction projects.

Prior to final design of any ~~urban~~ *local highway system* highway funded in part by any municipality, such municipality may have conducted a landscape study by a competent authority which shall assess

the effect such proposed highway construction may have on existing trees, shrubbery and other flora and shall make recommendations as to modifications to such project which would minimize damage to existing flora. The Department of Transportation shall consider such recommendations and modify such highway construction plans to protect trees, shrubbery, and other flora if determined by the Department to be reasonable and practicable. The cost of such landscape study shall be payable by the municipality which initiates such statement.

§ 33.1-55. Relocation or removal of utility facilities within projects on statewide or regional systems. Whenever the Board shall determine that it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers or other structures, equipment and appliances (herein called "facilities") of any utility as herein defined, in, on, under, over or along existing streets which are to be included within any project on the ~~Interstate System~~ *statewide or regional systems* within cities or towns should be relocated or removed, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the Board. The cost of such relocation or removal, as herein defined, including the cost of installing such facilities in a new location or locations, and the cost of any lands, or any rights or interest in lands, and any other rights, required to accomplish such relocation or removal, shall be ascertained and paid by the Board as a part of the cost of such project.

For the purposes of this section, the term "utility" shall include publicly, privately, and cooperatively owned utilities and the term "cost of relocation or removal" shall include the entire amount paid by such utility properly attributable to such relocation or removal after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

The cost of relocating or removing utility facilities in connection with any project on the ~~Interstate System~~ *statewide or regional systems* within cities or towns is hereby declared to be a cost of highway construction.

§ 33.1-56. Relocation or removal of utility facilities within projects on statewide or regional systems; additional provisions.

Whenever the Board determines that it is necessary to relocate or remove any pipes, mains, storm sewers, water lines, sanitary sewers, natural gas facilities, or other structures, equipment, and appliances (herein called facilities) of any utility owned by (i) a county, (ii) a political subdivision of the Commonwealth or county, or (iii) a nonprofit, consumer-owned company, located in a county having a population of at least 32,000 but no more than 34,000, that (a) is exempt from income taxation under § 501 (c) (3) of the Internal Revenue Code, (b) is organized to provide suitable drinking water, (c) has no assistance from investors, (d) does not pay dividends, and (e) does not sell stock to the general public, or storm sewers, water lines, natural gas facilities, or sanitary sewers owned by a city and extending into any county, in, on, under, over, or along existing highways which are to be included within any project on the ~~interstate~~ *statewide* system or ~~primary~~ *regional* system within any county, the county or political subdivision of the Commonwealth or county, consumer-owned company, or city, as the case may be, shall relocate or remove the same in accordance with the order of the Board. The cost of such relocation or removal, as herein defined, including the cost of installing such facilities in a new location or locations, and the cost of any lands, or any rights or interest in lands, and any other rights, required to accomplish such relocation or removal, shall be ascertained and paid by the Board as a part of the cost of such project.

For the purposes of this section, the term "cost of relocation or removal" shall include the entire amount paid for the relocation or removal of such utility facilities properly attributable to such relocation or removal after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

The cost of relocating or removing such utility facilities in connection with any project on the ~~interstate~~ *statewide* system or ~~primary~~ *regional* system within counties is hereby declared to be a cost of highway construction.

§ 33.1-61. Parallel service roads; standards for access, service, etc., roads.

The Board may construct service roads parallel to a limited access highway in order to provide access at designated points for property owners abutting on the limited access highway and after the construction of such service roads shall maintain and regulate traffic over them.

The construction or alteration of any access, feeder or service road which is to serve properties isolated by construction of a limited access highway shall meet all minimum state standards or the standards of the cities or towns of more than ~~3,500~~ *5000* population, or of counties which maintain their own road networks, as provided for by ordinance, whichever is more strict.

Article 6.

~~Secondary~~ *Local* System of State Highways.

§ 33.1-67. Local system of state highways.

The ~~secondary~~ *local* system of state highways shall ~~consist of~~ *include* all of the public roads, causeways, bridges, landings and wharves ~~in the several counties of the Commonwealth~~ not included in

the State Highway System, including such roads and community roads leading to and from public school buildings, streets, causeways, bridges, landings and wharves in incorporated towns having 3,500 inhabitants or less according to the census of 1920, and in all towns having such a population incorporated since 1920, as constitute connecting links between roads in the secondary system in the several counties and between roads in the secondary system and roads in the primary system of the state highways, not, however, to exceed two miles in any one town. If in any such town, which is partly surrounded by water, less than two miles of the roads and streets therein constitute parts of the secondary system of state highways, the Commonwealth Transportation Board shall, upon the adoption of a resolution by the council or other governing body of such town designating for inclusion in the secondary system of state highways certain roads and streets in such town not to exceed a distance of two miles, less the length of such roads and streets in such town which constitute parts of the secondary system of state highways, accept and place in the secondary system of state highways such additional roads and streets.

§ 33.1-68. Certain school roads in local highway system.

All roads leading from the state highways, either primary or secondary, statewide, regional, or local system highways to public schools in the counties of the Commonwealth to which school buses are operated shall continue to constitute portions of the secondary local system highway system of state highways insofar as these roads lead to or are on school property and as such shall be improved and maintained.

§ 33.1-69. Control, supervision and management.

The control, supervision, management and jurisdiction over the secondary system of state local highway system highways shall be vested in the Department of Transportation and the maintenance and improvement, including construction and reconstruction, of such secondary local highway system of state highways within counties shall be by the Commonwealth under the supervision of the Commonwealth Transportation Commissioner. The boards of supervisors or other governing bodies of the several counties and the county road board or county road commission of any county operating under a county road board or county road commission shall have no control, supervision, management and jurisdiction over such public roads, causeways, bridges, landings and wharves, constituting the secondary local system of state highways. Except as otherwise provided in this article, the Commonwealth Transportation Board shall be vested with the same powers, control and jurisdiction over the secondary local highway system of state highways in the several counties and towns of the Commonwealth, and such additions as may be made from time to time, as were vested in the boards of supervisors or other governing bodies of the several counties or in the county road board or county road commission in any county operating under a county road board or county road commission on June 21, 1932, and in addition thereto shall be vested with the same power, authority and control as to the secondary local highway system of state highways as is vested in the Board in connection with the State Highway System.

§ 33.1-69.01. Department to install and maintain certain signs.

Whenever so requested by the governing body of a county, the Department of Transportation shall install a system of street name signs on state-maintained highways at such time and upon such terms and conditions as may be mutually agreed to between the county and the Commonwealth Transportation Commissioner.

The Department shall install, using state forces or contract, the initial signing system and the county shall be responsible for continuing maintenance of the signs. Supply of the signs by the Department, either by manufacture or purchase, and initial installation shall be paid for from appropriate secondary local highway system construction funds allocated to the county or from primary statewide system or regional system construction funds available to the Department.

No highway funds shall be used by the county for the cost of maintaining the signing system.

§ 33.1-69.1. Transfer of control, etc., of landings, docks and wharves to Department of Game and Inland Fisheries.

A. Notwithstanding any other provision of law, the Commonwealth Transportation Board may transfer the control, possession, supervision, management, and jurisdiction of landings, wharves, and docks in the secondary local highway system of state highways to the Department of Game and Inland Fisheries, at the request or with the concurrence of the Department of Game and Inland Fisheries. Such transfer may be by lease, agreement, or otherwise, approved by resolution of the Board, and signed by the Commissioner or his designee, for such period and upon such terms and conditions as the Board may direct.

B. All such transfers effected prior to the enactment of this section by lease, agreement, or otherwise, from the Department to the Department of Game and Inland Fisheries, and all regulations of the Department of Game and Inland Fisheries controlling the use of such facilities, shall be and are hereby declared valid in every respect.

§ 33.1-69.2. Relocation or removal of utility facilities within local highway system construction

projects.

Whenever it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers, or other structures, equipment and appliances (herein called facilities) of any utility as herein defined, in, on, under, over or along an existing highway that is to be included within any construction project on the *secondary local* highway system should be relocated or removed, the owner or operator of such facilities shall relocate or remove the same in accordance with the order of the Board. The cost of such relocation or removal, as herein defined, including the cost of installing such facilities in a new location or locations, and the cost of any lands, or any rights or interest in lands, and any other rights, required to accomplish such relocation or removal, shall be ascertained and paid by the Board as a part of the cost of such project.

For the purposes of this section, "utility" includes utilities owned by a county, city, town, public authority or nonprofit, consumer-owned company, located in a county having a population of at least 32,000 but no more than 34,000, that (i) is exempt from income taxation under § 501 (c) (3) of the Internal Revenue Code, (ii) is organized to provide suitable drinking water, (iii) has no assistance from investors, (iv) does not pay dividends, and (v) does not sell stock to the general public, and "cost of relocation or removal" includes the entire amount paid by such utility properly attributable to such relocation or removal after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

The cost of relocating or removing utility facilities in connection with any project on the *secondary local* highway system is hereby declared to be a cost of highway construction.

§ 33.1-70.01. Six-year plan for local highway system components; certain reimbursements required.

The governing body of each county *or municipality* in the *secondary local* highway 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, shall~~ prepare a six-year plan for the improvements to the *secondary local* highway system in that county *or municipality*. Each such six-year plan shall be based upon the best estimate of funds to be available to the county *or municipality* for expenditure in the six-year period on the *secondary local* 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 local~~ governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county *or municipality* 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 or municipality~~ 10 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 local governing body, the~~ entire six-year plan shall be discussed with the citizens of the county *or municipality* and their views considered. Following such discussion, the *local* 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 *or municipality*.

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 each local governing body with an updated estimate of funds and the board and the representative of the Department of Transportation shall jointly~~ *local governing body shall* 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 local~~ 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, local governing body~~ 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 local* highway system budget for the county *or municipality* 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, or municipality shall~~ update the six-year plan of such county *or municipality* 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 local* 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

797 the same procedures as outlined herein for its initial preparation. Where the governing body and the
798 resident engineer or other representative of the Department of Transportation fail to agree upon a
799 priority program, the governing body may appeal to the Commonwealth Transportation Commissioner.
800 The Commissioner shall consider all proposed priorities and render a decision establishing a priority
801 program based upon a consideration by the Commissioner of the welfare and safety of county citizens.
802 Such decision shall be binding.

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

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

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

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

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

823 § 33.1-70.1. Paving of certain local highway system roads within existing rights-of-way; designation
824 as Rural Rustic Road.

825 A. Whenever the governing body of any county, after consultation with personnel of the Department
826 of Transportation, adopts a resolution requesting the Department of Transportation to hard-surface any
827 secondary road in such county that carries 50 or more vehicles per day with a hard surface of width and
828 strength adequate for such traffic volume, the Department of Transportation shall give consideration to
829 such resolution in establishing priority in expending the funds allocated to such county. The Department
830 shall consider the paving of roads with a right-of-way width of less than 40 feet under this subsection
831 when land is, has been, or can be acquired by gift for the purpose of constructing a hard-surface road.

832 B. Notwithstanding the provisions of subsection A of this section, anyA. Any unpaved secondary road
833 *local highway system component* that carries at least 50 but no more than 750 vehicles per day may be
834 paved or improved and paved within its existing right-of-way or within a wider right-of-way that is less
835 than 40 feet wide if the following conditions are met:

836 1. The governing body of the county *or municipality* in which the road is located has requested
837 paving of such road as part of the six-year plan for the county *or municipality* under § 33.1-70.01 and
838 transmitted that request to the Commonwealth Transportation Commissioner.

839 2. The Commonwealth Transportation Commissioner, after having considered only (i) the safety of
840 such road in its current condition and in its paved or improved condition, including the desirability of
841 reduced speed limits and installation of other warning signs or devices, (ii) the views of the residents
842 and owners of property adjacent to or served by such road, (iii) the views of the governing body making
843 the request, (iv) the historical and aesthetic significance of such road and its surroundings, (v) the
844 availability of any additional land that has been or may be acquired by gift or other means for the
845 purpose of paving such road within its existing right-of-way or within a wider right-of-way that is less
846 than 40 feet wide, and (vi) environmental considerations, shall grant or deny the request for the paving
847 of such road under this subsection.

848 C. B. Notwithstanding the *foregoing* provisions of subsections A and B *this section*, the governing
849 body of any county *or municipality*, in consultation with the Department, may designate a road or road
850 segment as a Rural Rustic Road provided such road or road segment is located in a low-density
851 development area and has an average daily traffic volume of no more than 500 vehicles per day. For a
852 road or road segment so designated, improvements shall utilize a paved surface width based on reduced
853 and flexible standards that leave trees, vegetation, side slopes and open drainage abutting the roadway
854 undisturbed to the maximum extent possible without compromising public safety. The Department, in
855 consultation with the affected local governing body, shall first consider the paving of a road or road
856 segment meeting the criteria for a Rural Rustic Road in accordance with this subsection before making a
857 decision to pave it to another standard as set forth in this section. The provisions of this subsection shall
858 become effective July 1, 2003.

D. C. The Commonwealth, its agencies, instrumentalities, departments, officers, and employees acting within the scope of their duties and authority shall be immune for damages by reason of actions taken in conformity with the provisions of this section. Immunity for the governing body of any political subdivision requesting paving under this section and the officers and employees of any such political subdivision shall be limited to that immunity provided pursuant to § 15.2-1405.

§ 33.1-72.1. Taking certain streets into secondary system.

A. "Street," as used in this section, means a street or highway shown on a plat which was recorded or otherwise opened to public use prior to July 1, 1990, at which time it was open to and used by motor vehicles, and which, for any reason, has not been taken into the ~~secondary local highway~~ system of state highways and serves at least three families per mile.

B. "County," as used in this section, means a county in which the ~~secondary local~~ system of the state highways is constructed and maintained by the Department of Transportation and which has adopted a local ordinance for control of the development of subdivision streets to the necessary standards for acceptance into the ~~secondary local highway~~ system.

C. Whenever the governing body of a county recommends in writing to the Department of Transportation that any street in the county be taken into and become a part of the ~~secondary local highway~~ system of the state highways in such county, the Department of Transportation thereupon, within the limit of available funds and the mileage available in such county for the inclusion of roads and streets in the ~~secondary local highway~~ system, shall take such street into the ~~secondary local highway~~ system of state highways for maintenance, improvement, construction and reconstruction if such street, at the time of such recommendation, either: (i) has a minimum dedicated width of ~~forty~~40 feet or (ii) in the event of extenuating circumstances as determined by the Commonwealth Transportation Commissioner, such street has a minimum dedicated width of ~~thirty~~30 feet at the time of such recommendation. In either case such streets must have easements appurtenant thereto which conform to the policy of the Commonwealth Transportation Board with respect to drainage. After the streets are taken into the ~~secondary local highway~~ system of state highways, the Department shall maintain the same in the manner provided by law. For streets whose plans are submitted on or after July 1, 1998, if the local government requires street pavement widths other than those set forth in the Virginia Department of Transportation's Subdivision Street Requirements (24 VAC 30-90-10 et seq. of the Virginia Administrative Code), any increase in the annual cost of maintenance attributable to such other pavement widths shall be paid to the Department by the local government. Such street shall only be taken into the ~~secondary local highway~~ system of state highways if the governing body of the county agrees to contribute from county revenue or the special assessment of the landowners on the street in question one-half of the cost to bring the streets up to the necessary minimum standards for acceptance. No such special assessment of landowners on such streets shall be made unless the governing body of the county receives written declarations from the owners of ~~seventy-five~~75 percent or more of the platted parcels of land abutting upon such street stating their acquiescence in such assessments. The basis for such special assessments, at the option of the local governing body, shall be either (i) the proportion the value of each abutting parcel bears to total value of all abutting parcels on such street as determined by the current evaluation of the property for real estate tax purposes, or (ii) the proportion the abutting road front footage of each parcel abutting the street bears to the total abutting road front footage of all parcels abutting on the street, or (iii) an equal amount for each parcel abutting on such street. No such special assessment on any parcel shall exceed one-third of the current evaluation of such property for real estate tax purposes. Such streets are eligible under this provision only if neither the original developer, developers, nor successor developers retain a speculative interest in property abutting such streets. For the purpose of this section, ownership or partnership in two or more parcels, or equivalent frontage, abutting such streets shall constitute speculative interest. Special assessments under this section shall be conducted in the manner provided in Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2, mutatis mutandis, for assessments for local improvements.

D. Whenever the governing body of a county recommends in writing to the Department of Transportation that any street in the county be taken into the ~~secondary local highway~~ system of state highways as a rural addition to the ~~secondary local highway~~ system in such county, the Department of Transportation thereupon shall, within the limitation of funds and the mileage limitation of the Commonwealth Transportation Board's policy on rural additions, take such street into the ~~secondary local highway~~ system of state highways as a rural addition thereto for maintenance, improvement, construction, and reconstruction. Any street added to the ~~secondary local highway~~ system under this provision shall be constructed to the Department's standards for the traffic served. Such streets are eligible under this provision only if neither the original developer, developers, nor successor developers retain a speculative interest, as herein defined, in property abutting such streets. The local governing body of any county may use revenues derived from the sale of bonds to finance the construction of rural additions to the ~~secondary local highway~~ system of such county. In addition, from the funds allocated by

the Commonwealth for the construction of secondary road improvements, such governing body may use funds allocated within the Commonwealth Transportation Board policy for the construction of rural additions to pay principal and interest on bonds associated with rural additions in such county, provided the revenue derived from the sale of such bonds is not used as the county matching contribution under § 33.1-75.1. The provisions of this section shall not constitute a debt or obligation of the Commonwealth Transportation Board or the Commonwealth of Virginia.

E. In instances where it is determined that speculative interest is retained by the original developer, developers, or successor developers and the governing body of the county deems that extenuating circumstances exist, the governing body of the county shall require a pro rata participation by such original developer, developers or successor developers as a condition of the county's recommendation pursuant to this section. The basis for the pro rata percentage required of such developer, developers, or successor developers shall be the proportion that the value of the abutting parcels owned or partly owned by the developer, developers, or successor developers bears to the total value of all abutting property as determined by the current evaluation of the property for real estate purposes. The pro rata percentage shall be applied to the Department of Transportation's total estimated cost to construct such street to the necessary minimum standards for acceptance to determine the amount of costs to be borne by the developer, developers, or successor developers. Property so evaluated shall not be assessed in the special assessment for the determination of the individual pro rata share attributable to other properties. Further, when such pro rata participation is accepted by the governing body of the county from such original developer, developers, or successor developers, such amount shall be deducted from the Department of Transportation's total estimated cost and the remainder of such estimated cost shall then be the basis of determining the assessment under the special assessment provision or determining the amount to be provided by the county when funded from general county revenue under subsection C of this section or determining the amount to be funded as a rural addition under subsection D of this section.

F. Acceptance of any street into the ~~secondary local highway~~ system of state highways for maintenance, improvement, construction, and reconstruction shall not impose any obligation on the Board to acquire any additional right-of-way or easements should they be necessary by virtue of faulty construction or design.

G. The local governing body of the county may expend general county revenue for the purposes of this section.

H. The local governing body of the county may permit one or more of the landowners on the street in question to pay to the county a sum equal to one-half of the cost to bring the street up to the necessary minimum standards for acceptance into the ~~secondary local highway~~ system of state highways, which funds the county shall then utilize for such purpose. Thereafter, upon collection of the special assessment of landowners on such street, the county shall use such special assessment funds to reimburse, without interest, the one or more landowners for those funds which they previously advanced to the county to bring the street up to the necessary minimum standards for acceptance.

I. Any funds allocated for use within any county for the purpose of adding to the ~~secondary local highway~~ system of highways, if not used by such county for such purpose during the fiscal year they are so allocated, may be held for such purpose for the three succeeding fiscal years.

§ 33.1-75.1. Special revenue 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 \$500,000 in county general funds for use by the Commonwealth Transportation Board to construct, maintain or improve the ~~primary and secondary~~ statewide, regional, and local highway systems within such county. Such funds allocated by the Commonwealth Transportation Board and such 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~~ statewide, regional, and local road fund," and shall be used solely for the purposes of either (i) maintaining, improving or constructing the ~~primary and secondary~~ statewide, regional, and local 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 statewide, regional, and local highway systems. 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 statewide, regional and local highways 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 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.

§ 33.1-75.2. Contributions to statewide, regions, or local highway systems by counties.

Notwithstanding any other provision of law, any county having roads in the ~~primary or secondary~~ *statewide, regional, or local highway system of state highways* may contribute funds annually for the construction of ~~primary or secondary roads~~ *statewide, regional or local highway system components*. The funds contributed by such county shall be appropriated from the county's general revenues for use by the Department of Transportation on the ~~primary or secondary~~ *statewide, regional, or local highway system* within such county as may be determined by the board of supervisors of such county in cooperation with the Department. The funds to which any county may be entitled under the provisions of §§ 33.1-23.1, 33.1-23.2, *33.1-23.3:1*, and 33.1-23.4 for construction, improvement or maintenance of ~~primary or secondary roads~~ *statewide, regional, or local highway system components* shall not be diminished by reason of any funds contributed for that purpose by such county or by any person or entity, regardless of whether such contributions are matched by state or federal funds.

§ 33.1-75.3. Construction and improvement of statewide, regional, or local system 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 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~~ *statewide, regional, or local highway system*. 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 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, *33.1-23.3:1* 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, *33.1-23.3:1*, 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~~ *statewide, regional, or local system* highway projects that have been included in the six-year plan pursuant to § 33.1-70.01, or in the case of a ~~primary~~ *stateside or regional* 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~~ *statewide, regional, or local highway system* 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.

§ 33.1-79. Maintenance, etc., of streets and roads in certain towns from local funds.

The Commonwealth Transportation Commissioner of ~~Virginia~~ is hereby authorized and empowered ~~may~~, subject to the approval of the Commonwealth Transportation Board, upon request of the governing bodies of incorporated towns of less than ~~3,500~~ *5,000* inhabitants, according to the last United States census, to select certain streets and roads in such towns for maintenance, improvement, construction and reconstruction from allocations available from ~~secondary~~ *local highway system* funds not to exceed ~~2~~ *two* miles of streets or roads in such incorporated towns included in the secondary system of highways, whether such ~~2~~ *two* miles of streets or roads constitute connecting links between roads in the ~~secondary~~ *local highway* system in the several counties, or between roads in the ~~secondary~~ *local* system and roads in the ~~primary system, of the state highways statewide or regional highway systems~~ or not.

The said Commissioner is hereby authorized and empowered ~~may~~, with the approval of the Commonwealth Transportation Board, in addition to the said two miles ~~to~~, increase the mileage of streets and roads in such incorporated towns annually, not to exceed, however, in any one year one-fourth mile, exclusive of any mileage transferred from the ~~primary system statewide or regional highway systems~~ under the provisions of § 33.1-35, or any mileage maintained by the Department of Transportation prior to its annexation by such incorporated town.

§ 33.1-84.1. Resumption of responsibility for local highway system components by counties.

Notwithstanding any provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, the Commonwealth Transportation Commissioner, following receipt of a resolution adopted by the Board of Supervisors of a county requesting such action, may enter into an agreement with any county that desires to resume responsibility over any portion of the ~~state~~ *secondary local highway* system of highways within such county's boundaries for the purposes of planning, constructing, maintaining, and operating such highways. Such agreement shall specify the equipment, facilities, personnel, and funding that will be provided in order to implement such agreement's provisions.

§ 33.1-85. Return after withdrawal from local highway system.

Any county which has withdrawn its roads from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of 1932, approved March 31, 1932, ~~shall have the right~~ *may* at any time ~~to bring itself back within such secondary~~ *the local highway* system of ~~state highways~~, provided the same shall be approved by a majority of the qualified voters of such county voting in an election called for that purpose, as hereafter provided in this article.

§ 33.1-86. Election to determine whether to come within the local highway system.

The circuit court of any such county, or the judge thereof in vacation, shall, upon the petition of qualified voters of the county equal in number to at least ~~twenty per centum~~ *20 percent* of the number counted in such county for presidential electors at the last preceding presidential election, but in no event less than 250, make an order requiring the judges of election, on such day as may be fixed in the order, but not less than 30 days after the date of entry thereof, to open a poll and take the sense of the qualified voters of the county on the question of whether or not such county shall ~~come back~~ *bring itself* within ~~such secondary~~ *the local highway* system of ~~state highways~~. The qualifications of voters at each such election shall be as provided by §§ 24.2-400 through 24.2-403.

The form of ballot for use in any such election shall be as follows:

"Shall county (the name of such county to be inserted) ~~come back within the secondary local highway system of state highways~~ for maintenance and construction by the ~~State Commonwealth?~~

Yes

No"

Each qualified voter, who shall approve the coming back within the secondary system of state highways shall express such approval by striking out the word "No," and each voter who shall disapprove the same shall express his disapproval by striking out the word "Yes." All other proceedings in connection with any such election shall be in conformity with the proceedings prescribed in § 11 of Chapter 415 of the Acts of 1932, approved March 31, 1932.

§ 33.1-87. Effect of election.

If the result of such election shall be in favor of the county coming back within the ~~secondary local highway system of state highways~~, such county shall, after the entry by the court of an order so declaring the result of such election and on and after the first day of July next succeeding, be within the ~~secondary local highway system of state highways~~ as fully and completely as if it had not withdrawn therefrom from the secondary highway system. All provisions of this article shall thereupon apply to and be enforced as to such county to the same extent as if the dates in such Chapter 415 of the Acts of 1932 had been changed to correspond with the year in which such county shall come within the ~~secondary local highway system of state highways~~. Such county shall not be allowed again to withdraw from the ~~secondary local highway system of state highways~~.

§ 33.1-88. Machinery, etc., owned by county coming within the local highway system.

The Commonwealth Transportation Commissioner shall, as promptly as practicable, make or cause to be made an inventory and appraisal of all road machinery, equipment, teams, material and supplies, on hand or belonging to the local road authorities of any county that shall ~~so return~~ come within the ~~secondary local highway system of state highways or any district thereof~~, which may be deemed by him suitable for work on the ~~secondary local highway system of state highways~~, and shall file such inventory and appraisal with the Commonwealth Transportation Board. The local road authorities may, if they so elect, turn over to the Commonwealth such road machinery, equipment, teams, material and supplies at the appraised value thereof, which shall be paid within two years out of funds available for expenditure on roads in the ~~secondary local highway system of state highways~~ or, if they so prefer, the local road authorities may retain or sell any of such property otherwise or, if they so elect, may turn over to the Commissioner all or any of such property for use ~~upon~~ on the ~~secondary local highway system of state highways~~ without reimbursement therefor. Any sums received by the local road authorities under the provisions of this section shall, so far as may be necessary, be applied on account of obligations theretofore contracted for county or district road purposes and the balance, if any, for general county purposes.

§ 33.1-221.1:3. Northern Virginia Transportation District Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Northern Virginia be addressed by a special transportation program to provide for the costs of providing an adequate, modern, safe and efficient transportation network in Northern Virginia which shall be known as the Northern Virginia Transportation District Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following projects: the Fairfax County Parkway, Route 234 Bypass, Metrorail Capital Improvements attributable to Fairfax County including Metro parking expansions, Metro Capital Improvements, including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail capital improvements attributable to the City of Alexandria including the King Street Metrorail Station access, Metrorail capital improvements attributable to Arlington County, including Ballston Station improvements, Route 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun County, Route 1/Route 123 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax, Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234 interchange improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus replacement program, and Dulles Corridor Enhanced Transit program.

B. Allocations to this Program from the Northern Virginia Transportation District Fund established by § 58.1-815.1 shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient transportation system connecting the communities, businesses, places of employment, and residences of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, mobility and quality of life in Virginia.

C. Except in the event that the Northern Virginia Transportation District Fund is insufficient to pay for the costs of the Program, allocations to the Program shall not diminish or replace allocations made from other sources or diminish allocations to which any district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that transportation improvements in the Northern Virginia Transportation District may be accelerated and augmented. Allocations under this subsection shall be limited to projects specified in § 33.1-268 (2) (s).

D. The Commonwealth Transportation Board may expend such funds from all sources as may be lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection E of this section.

E. The Commonwealth Transportation Board is authorized to receive, dedicate or use first from (i)

1165 revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required,
1166 funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the
1167 ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the project or projects to be
1168 financed are located or to the city or county in which the project or projects to be financed are located,
1169 (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such
1170 other funds which may be appropriated by the General Assembly for the payment of bonds or other
1171 obligations, including interest thereon, issued in furtherance of the Program. No such bond or other
1172 obligations shall pledge the full faith and credit of the Commonwealth.

1173 § 33.1-268. Definitions.

1174 As used in this article, the following words and terms shall have the following meanings:

1175 (1) The word "Board" means the Commonwealth Transportation Board, or if the Commonwealth
1176 Transportation Board is abolished, any board, commission or officer succeeding to the principal
1177 functions thereof or upon whom the powers given by this article to the Board shall be given by law.

1178 (2) The word "project" or "projects" means any one or more of the following:

1179 (a) York River Bridges, extending from a point within the Town of Yorktown in York County, or
1180 within York County across the York River to Gloucester Point or some point in Gloucester County.

1181 (b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County,
1182 across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at
1183 some other feasible point in the general vicinity of the two respective points.

1184 (c), (d) [Reserved.]

1185 (e) James River Bridge, from a point at or near Jamestown, in James City County, across the James
1186 River to a point in Surry County.

1187 (f), (g) [Reserved.]

1188 (h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting
1189 roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

1190 (i) [Reserved.]

1191 (j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points
1192 in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton
1193 Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

1194 (k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection
1195 of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge
1196 and Primary Route 60.

1197 (l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River
1198 in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges
1199 of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property,
1200 rights, easements and franchises relating to any of the foregoing projects and deemed necessary or
1201 convenient for the operation thereof and to include approaches thereto.

1202 (m) The limited access highway between the Patrick Henry Airport area and the Newport News
1203 downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

1204 (n) Dulles Access Road outer roadways, extending from a point on Route 7 in Loudoun County in
1205 an easterly direction to a point east of Route 123 on the Dulles Access Road in Fairfax County. These
1206 roadways are to be two or three lanes in each direction constructed adjacent to, and parallel to or
1207 extending west from, the Dulles Access Road.

1208 (o), (p) [Repealed.]

1209 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary
1210 highway transportation improvement district or transportation service district which the Board has agreed
1211 to finance under a contract with any such district or any other alternative mechanism for generation of
1212 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,
1213 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation
1214 made by the General Assembly for that purpose and payable first from revenues received under such
1215 contract or other local funding source, second, to the extent required, from funds appropriated and
1216 allocated, pursuant to the highway allocation formula as provided by law, to the ~~highway construction~~
1217 ~~district~~ *region, as defined in § 33.1-23.05*, in which the project is located or to the county or counties in
1218 which the project is located and third, to the extent required from other legally available revenues of the
1219 Trust Fund and from any other available source of funds.

1220 (r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

1221 (s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

1222 (t) Any program for highways or mass transit or transportation facilities, endorsed by the local
1223 jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will
1224 be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the
1225 proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a
1226 "Transportation Improvement Program."

(u) Any project designated from time to time by the General Assembly financed in whole or part through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

(3) The word "undertaking" means all of the projects authorized to be acquired or constructed under this article.

(4) The word "improvements" means such repairs, replacements, additions and betterments of and to a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions and betterments are ordered prior to the sale of any bonds for the acquisition of such project.

(5) The term "cost of project" as applied to a project to be acquired by purchase or by condemnation, includes the purchase price or the amount of the award, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, cost of traffic estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprises, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized and the acquisition of the project and the placing of the project in operation.

(6) The term "cost of project" as applied to a project to be constructed, embraces the cost of construction, the cost of all lands, properties, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, cost of traffic estimates and of engineering data, engineering and legal expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized, the construction of the project, the placing of the project in operation and the condemnation of property necessary for such construction and operation.

(7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or associations having any title or interest in any property rights, easements or franchises authorized to be acquired by this article.

(8) [Repealed.]

(9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by the Board pursuant to this article, including, without limitation, legally available Transportation Trust Fund revenues and any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth.

(10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of

1288 Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General
1289 Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii)
1290 to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as
1291 provided by law, to the ~~highway construction district region~~, *as defined in § 33.1-23.05*, in which the
1292 project or projects to be financed are located or to the city or county in which the project or projects to
1293 be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust
1294 Fund, and (iv) such other funds which may be appropriated by the General Assembly;

1295 4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
1296 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
1297 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General
1298 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any
1299 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for
1300 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent
1301 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by
1302 law, to the ~~highway construction district region~~, *as defined in § 33.1-23.05*, in which the project or
1303 projects to be financed are located or to the city or county in which the project or projects to be
1304 financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust
1305 Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any
1306 project or projects shall be issued under the authority of this subsection unless such project or projects
1307 are specifically included in a bill or resolution passed by the General Assembly;

1308 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
1309 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
1310 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established
1311 by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally
1312 available revenues of the Transportation Trust Fund, and (iii) such other funds which may be
1313 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
1314 authority of this subsection unless such project or projects are specifically included in a bill or resolution
1315 passed by the General Assembly;

1316 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
1317 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to
1318 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any
1319 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the
1320 discretion of the Board, to the extent required, from legally available revenues of the Transportation
1321 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly
1322 for such purpose;

1323 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such
1324 projects;

1325 6. Construct grade separations at intersections of any projects with public highways, streets or other
1326 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
1327 same to the design of such grade separations, the cost of such grade separations and any damage
1328 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
1329 ascertained and paid by the Board as a part of the cost of the project;

1330 7. Vacate or change the location of any portion of any public highway, street or other public way or
1331 place and reconstruct the same at such new location as the Board deems most favorable for the project
1332 and of substantially the same type and in as good condition as the original highway, streets, way or
1333 place, the cost of such reconstruction and any damage incurred in vacating or changing the location
1334 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,
1335 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the
1336 manner provided by law for the vacation or relocation of public roads and any damages awarded on
1337 account thereof may be paid by the Board as a part of the cost of the project;

1338 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and
1339 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and
1340 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,
1341 or other political subdivision, public utility or public service corporation owning or operating the same
1342 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any
1343 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,
1344 county, political subdivision, public utility or public service corporation shall relocate or remove the
1345 same in accordance with the order of the Board. The cost and expense of such relocation or removal,
1346 including the cost of installing such public utility facilities in a new location or locations, and the cost
1347 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such
1348 relocation or removal shall be ascertained by the Board.

1349 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of

the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation. On all other projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, or political subdivision. The Commonwealth or such municipality, county, political subdivision, public utility or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances, in the new location or locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location or locations;

9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article; and

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia.

§ 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, from bond proceeds or earnings thereon and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the project or projects to be financed are located or to the county or counties in which such project or projects are located, (iii) from bond proceeds or earnings thereon, (iv) to the extent required, from other legally available revenues of the Trust Fund, and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein

1411 provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund,
1412 subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally
1413 available from the Transportation Trust Fund and (iii) to the extent required, from any other legally
1414 available funds which shall have been appropriated by the General Assembly.

1415 D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1
1416 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the
1417 Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall
1418 be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues
1419 received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds
1420 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the
1421 ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the project or projects to be
1422 financed are located or to the city or county in which the project or projects to be financed are located,
1423 (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such
1424 other funds which may be appropriated by the General Assembly.

1425 E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for
1426 projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the
1427 Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable
1428 solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from
1429 any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent
1430 required, revenues received pursuant to any contract with a local jurisdiction or any alternative
1431 mechanism for generation of local revenues for specific funding of a project satisfactory to the
1432 Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated,
1433 pursuant to the highway allocation formula as provided by law, to the highway construction district in
1434 which the project or projects to be financed are located or to the city or county in which the project or
1435 projects to be financed are located, (iv) to the extent required, legally available revenues from the
1436 Transportation Trust Fund, and (v) such other funds which may be appropriated by the General
1437 Assembly.

1438 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this
1439 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full
1440 faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to
1441 appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other
1442 federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion
1443 of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund,
1444 and (iii) then, from such other funds, if any, which are designated by the General Assembly for such
1445 purpose.

1446 § 33.1-285.1. Reserve funds and appropriations.

1447 A. In connection with the Commonwealth of Virginia Transportation Contract Revenue Bonds, the
1448 Board may create and establish one or more special funds (herein referred to as "reserve funds"), and
1449 shall pay into each such reserve fund from bond proceeds and any moneys appropriated and made
1450 available by the Commonwealth for the purpose of such fund and from any other moneys which may be
1451 made available to the Board for the purpose of such fund from any other source or sources. All moneys
1452 held in any reserve fund shall be used, as required, solely for the payment of the principal and interest
1453 of Commonwealth of Virginia Transportation Contract Revenue Bonds.

1454 B. In order to further ensure maintenance of the foregoing reserve fund, the Commonwealth
1455 Transportation Commissioner shall annually, on or before December 1, make and deliver to the
1456 Governor and Director of the Budget his certificate stating the sum, if any, required to restore each such
1457 reserve fund to the minimum reserve fund requirement for such fund as may be established by the
1458 Board. Within five days after the beginning of each session of the General Assembly, the Governor shall
1459 submit to the presiding officer of each house printed copies of a budget including the sum, if any,
1460 required to restore each such reserve fund to the minimum reserve fund requirement for such fund. All
1461 sums appropriated by the General Assembly for such restoration and paid shall be deposited by the
1462 Board in the applicable reserve fund and shall be deducted from amounts otherwise allocable pursuant to
1463 the highway allocation formula as provided by law, to the ~~highway construction district~~ *region, as*
1464 *defined in § 33.1-23.05*, in which the project or projects are located or to the county or counties in
1465 which the project or projects financed are located.

1466 § 33.1-416. Agreements with Commonwealth Transportation Board; payment of special improvements
1467 tax to Transportation Trust Fund.

1468 The district may contract with the Commonwealth Transportation Board for the Board to perform
1469 any of the purposes of the district.

1470 The district may agree by contract to pay all or a portion of the special improvements tax to the
1471 Commonwealth Transportation Board.

1472 Prior to executing any such contract, the district shall seek the agreement of each local governing

body creating the district that the locality's officer charged with the responsibility for preparing the locality's annual budget shall submit in the budget for each fiscal year in which any Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district are outstanding, all amounts to be paid to the Commonwealth Transportation Board under such contract during such fiscal year.

If the amount required to be paid to the Commonwealth Transportation Board under the contract is not so paid for a period of ~~sixty~~60 days after such amount is due, the Commonwealth Transportation Board shall, until such amount has been paid, withhold sufficient funds from funds appropriated and allocated, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, to the ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the transportation improvements covered by such contract are located or to such locality or localities in which such transportation improvements are located and to use such funds to satisfy the contractual requirements.

While nothing in this chapter shall limit the authority of any locality to change the classification of property zoned for commercial or industrial use or used for such purpose upon the written request or approval of the owner of any property affected by such change after the effective date of any such contract, should a change in zoning classification so requested result in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board pursuant to the contract, the district shall request the local governing body to increase the rate of such tax by such amount up to the maximum authorized rate as may be necessary to prevent such shortfall. If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at the maximum authorized rate and cannot be increased, then the amount of funds otherwise appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project covered by such contract is located or to such county or counties in which such project is located, shall be reduced by the amount of such deficit and used to satisfy the deficit.

§ 33.1-436. Agreements with the Commonwealth Transportation Board; payment of special improvements tax to Transportation Trust Fund.

A. In addition to any other power conferred by this chapter, the district may contract with the Commonwealth Transportation Board for the Board to perform any of the purposes of the district.

The district may agree by contract to pay all or a portion of the special improvements tax to the Commonwealth Transportation Board.

Prior to executing any such contract, the district shall seek the agreement of the governing body that the county's officer, charged with the responsibility for preparing the county's annual budget, shall submit in the budget for each fiscal year in which any Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district are outstanding, all amounts to be paid to the Commonwealth Transportation Board under such contract during such fiscal year.

If the amount required to be paid to the Commonwealth Transportation Board under the contract is not so paid for a period of ~~sixty~~60 days after such amount is due, the Commonwealth Transportation Board shall, until such amount has been paid, withhold sufficient funds from funds appropriated and allocated, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, to the ~~highway construction district~~ *region, as defined in § 33.1-23.05*, in which the transportation improvements covered by such contract are located or to such locality or localities in which such transportation improvements are located and to use such funds to satisfy the contractual requirements.

B. While nothing in this chapter shall limit the authority of any county or participating town to change the classification of property zoned for commercial or industrial use or used for such purpose upon the written request or approval of the owner of any property affected by such change after the effective date of any such contract, should a change in zoning classification so requested result in a shortfall in the total annual revenues from the imposition of the special improvements tax and the payments required to be made to the Commonwealth Transportation Board pursuant to the contract, the district shall request the governing body to increase the rate of such tax by such amount up to the maximum authorized rate as may be necessary to prevent such shortfall. If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at the maximum authorized rate and cannot be increased, then the amount of funds otherwise appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the ~~highway construction~~ *region, as defined in § 33.1-23.05*, district in which the project covered by such contract is located or to the county, shall be reduced by the amount of such deficit and used to satisfy the deficit.

§ 58.1-2259. Fuel uses eligible for refund.

A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon any fuel:

1. Sold and delivered to a governmental entity for its exclusive use;

- 1534 2. Used by a governmental entity, provided persons operating under contract with a governmental
1535 entity shall not be eligible for such refund;
- 1536 3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2
1537 of § 58.1-2250 for its exclusive use in the operation of an aircraft;
- 1538 4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250
1539 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such
1540 an organization shall not be eligible for such refund;
- 1541 5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed
1542 exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax
1543 applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this
1544 section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply
1545 tank of a highway vehicle or an aircraft;
- 1546 6. Used by any person performing transportation under contract or lease with any transportation
1547 district for use in a highway vehicle controlled by a transportation district created under the
1548 Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the
1549 transportation district by contract or lease, provided the refund shall be paid to the person performing
1550 such transportation;
- 1551 7. Used by any private, nonprofit agency on aging, designated by the Department for the Aging,
1552 providing transportation services to citizens in highway vehicles owned, operated or under contract with
1553 such agency;
- 1554 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides
1555 specialized transportation to various locations for elderly or disabled individuals to secure essential
1556 services and to participate in community life according to the individual's interest and abilities;
- 1557 9. Used in operating or propelling buses owned and operated by a county or the school board thereof
1558 while being used to transport children to and from public school or from school to and from educational
1559 or athletic activities;
- 1560 10. Used by buses owned or solely used by a private, nonprofit, nonsectarian school while being
1561 used to transport children to and from such school or from such school to and from educational or
1562 athletic activities;
- 1563 11. Used by any county or city school board or any private, nonprofit, nonsectarian school
1564 contracting with a private carrier to transport children to and from public schools or any private,
1565 nonprofit, nonsectarian school, provided the tax shall be refunded to the private carrier performing such
1566 transportation;
- 1567 12. Used in operating or propelling the equipment of volunteer firefighting companies and of
1568 volunteer rescue squads within this Commonwealth used actually and necessarily for firefighting and
1569 rescue purposes;
- 1570 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if
1571 actually used in public activities;
- 1572 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;
- 1573 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,
1574 which is used on a job site and the movement of which on any highway is incidental to the purpose for
1575 which it was designed and manufactured;
- 1576 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with
1577 tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but
1578 excluding fuel lost through personal negligence or theft;
- 1579 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;
- 1580 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment
1581 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or
1582 lessee of such vehicles and not operated on or over any highway for any purpose other than to move it
1583 in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the
1584 taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner
1585 into the state treasury to the credit of the Virginia Agricultural Foundation Fund;
- 1586 19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to
1587 the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be
1588 paid by the Commissioner into the state treasury to be credited as provided in subsection D of
1589 § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the
1590 credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in
1591 subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests,
1592 the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement
1593 Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;
- 1594 20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if
1595 the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to

propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while fuel is being used from the auxiliary tank; or

21. Used in operating or propelling recreational and pleasure watercraft.

B. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or air feed discharge systems for off-road deliveries of animal feed.

C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of passengers which has been issued a certificate of public convenience and necessity pursuant to §§ 46.2-2005 and 58.1-2204 providing regular route service over the highways of the Commonwealth. No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a single day between their place of abode and their place of employment, shopping areas or schools.

If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee arrangement between the holder of the permit and the driver or drivers, if all other conditions of this section have been met.

Under no circumstances shall a refund be granted more than once for the same fuel. The amount of refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less one cent per gallon on the fuel used.

Any refunds made under this subsection shall be deducted from the urban highway funds allocated to the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, region, as defined in § 33.1-23.05, in which the recipient has its principal place of business.

Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any county having withdrawn its roads from the secondary system of state highways under provisions of § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is now provided by law with respect to other fuel tax receipts.

D. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of tax paid for the fuel less discounts allowed by § 58.1-2233.

E. Any person who is required to be licensed under this chapter and is applying for a refund shall not be eligible for such refund if the applicant was not licensed at the time the refundable transaction was conducted.

2. That the provisions of this act shall not affect members of the Commonwealth Transportation Board appointed prior to July 1, 2004.

2. That §§ 33.1-23.1:1, 33.1-23.1:2, 33.1-23.3, 33.1-23.5, , 33.1-30, 33.1-49 through 33.1-54, and 33.1-70.2 of the Code of Virginia are repealed.