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HOUSE BILL NO. 368

Offered January 14, 2004

Prefiled January 12, 2004

A BILL to amend and reenact §§ 33.1-23.3 and 33.1-23.4 of the Code of Virginia, relating to allocation of urban system and secondary system highway construction funds.

Patrons—Rust, Albo, Amundson, Black, Callahan, Dillard, Petersen, Plum and Scott, J.M.; Senators: Cuccinelli, Howell, Mims, Puller, Saslaw and Ticer

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That §§ 33.1-23.3 and 33.1-23.4 of the Code of Virginia are amended and reenacted as follows:**

§ 33.1-23.3. Allocation of construction funds for urban system highways.

A. Such funds as are allocated to urban highways in (i) all towns that have more than 3,500 inhabitants according to the last preceding United States Census, (ii) all towns which, according to evidence satisfactory to the Commonwealth Transportation Board, have attained a population of more than 3,500 since the last preceding United States census, (iii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect, (iv) all cities regardless of their populations, and (v) the Towns of Wise, Lebanon, and Altavista pursuant to subdivision 2 of subsection B of § 33.1-23.1 shall be apportioned among the cities and towns of this Commonwealth by the Commonwealth Transportation Board in such a manner that each city or town to which these funds are allocable receives the same proportion of total funds available as the population of that city or town bears to the total population of all cities and towns among which such funds are allocable shall be allocated a share of such funds equal to the proportion that such city or town bears to all such cities and towns in terms of (i) area, (ii) vehicle miles traveled, and (iii) population, with area weighted 15 percent, vehicle miles traveled weighted 25 percent, and population weighted 60 percent. For the purposes of this section, the term "population" means either the population according to the latest United States census or the latest population estimate of the Center for Public Service, whichever is more recent. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town notwithstanding any subsequent changes in population and shall cease to apply only upon the subsequent enactment by the General Assembly of a measure in which the intent is clearly stated. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria above are hereby ratified, validated, and confirmed.

B. No apportionment hereunder shall be made to any city or town which does not have an urban project or projects approved by the Commonwealth Transportation Board and in no case shall the apportionment to any city or town exceed the total estimated cost of the project or projects for which funds are allocated. Such funds shall, as far as possible, be allotted prior to the commencement of the fiscal year and public announcement made of such allotment. Any apportionment due but not received by any city or town in a fiscal year for use under this section shall accrue as a credit to such city or town and be held for its construction projects for five succeeding fiscal years. Funds accrued shall be apportioned prior to any other distribution under this section in the fiscal year requested by the city or town.

A portion of allocations made to any city or town under this section may be used on streets functionally classified as arterial for (i) the purchase of residue parcels or land resulting from highway construction or reconstruction projects where the purchase will result in necessary access control or land use control directly related to the purpose and need for the project, (ii) improvements to traffic safety, (iii) improvement to traffic flow and transportation system use, or any combination of (i), (ii), and (iii). Notwithstanding other provisions of this section, not more than one-third of the annual urban system highway funds apportioned to a city or town under this section may be used to reimburse the locality for debt service for bonds or eligible project costs incurred on approved projects included in the Six-Year Improvement Program of the Commonwealth Transportation Board and the city's or town's capital improvement program. Such funds may also be used by the locality for debt service for bonds issued for, or eligible project costs incurred or to be incurred on, approved projects included, at the time such bonds are issued or such costs are incurred or are to be incurred, in the Six-Year Improvement Program of the Commonwealth Transportation Board and the city's or town's capital improvement program. Any such funds so apportioned to and received by such city or town, or any portion thereof, may be deposited in a special fund that shall be established separate and apart from any other funds, general or special.

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58 When the city or town presents a resolution requesting that a portion of its annual urban system
59 apportionment be set aside for reimbursement for, or payment of, debt service under this section for a
60 specific eligible project, the Commonwealth Transportation Board shall, subject to appropriation and
61 allocation, set aside no more than one-third of the anticipated annual apportionment of urban system
62 funding to the city or town for such purpose, provided such funds have not been previously committed
63 by the Board for projects contained in the Six-Year Improvement Program.

64 The setting aside and use of funds under this section for reimbursement for, or payment of, debt
65 service shall be subject to such terms and conditions as may be prescribed by the Commonwealth
66 Transportation Commissioner.

67 The provisions of this section shall not constitute a debt or obligation of the Commonwealth
68 Transportation Board or the Commonwealth of Virginia.

69 C. The governing body of any city or town may, with the consent of the Commonwealth
70 Transportation Board, expend urban system highway construction funds allocated annually to the city or
71 town by the Commonwealth Transportation Board for the design, land acquisition, and construction of
72 transportation projects that have been included in the Commonwealth Transportation Board's Six-Year
73 Improvement Program and for the resurfacing, restoration, rehabilitation, reconstruction, and
74 improvement of streets within the city or town for which the city receives maintenance payments under
75 § 33.1-41.1.

76 D. At the election of each city or town, payment of the funds may be made in equal amounts, one in
77 each quarter of the fiscal year, and shall be reduced, in the case of each city and town, by the amount
78 of federal-aid construction funds credited to each city or town and the amount of funds forecasted to be
79 expended by the Department of Transportation or the Department of Rail and Public Transportation for
80 any project or projects on behalf of the city or town. Those cities or towns who decide to take over the
81 responsibility for their construction program shall notify the Commonwealth Transportation Board by
82 July 1 for implementation the following year.

83 § 33.1-23.4. Allocation of construction funds within secondary system.

84 A. Such funds as are allocated to the secondary system of state highways pursuant to ~~paragraph~~
85 ~~subdivision~~ 3 of subsection B of § 33.1-23.1 shall be apportioned among the several counties in the
86 secondary system by the Commonwealth Transportation Board so that each such county shall be
87 allocated a share of such funds equal to the proportion that such county bears to the Commonwealth as
88 a whole in terms of area and population with population being weighted 80 percent, and area being
89 weighted 20 percent. For the purpose of this section, "area" means the total land area of a county
90 reduced by the area of any military reservations and state or national parks or forests within its
91 boundaries and such other similar areas and facilities of five square miles in area or more, as may be
92 determined by the Commonwealth Transportation Board. ~~shall be allocated a share of such funds equal to~~
93 ~~the proportion that such counts bears to all counties in the secondary system in terms of:~~ (i) area, (ii)
94 vehicle miles traveled, and (iii) population, with area weighted 15 percent, vehicle miles traveled
95 weighted 25 percent, and population weighted 60 percent.

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

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

102 B. Before allocating funds under ~~the foregoing provisions~~ subsection A of this section, the Board may
103 provide for exceptionally heavy expenditures for repairs or replacements made necessary by highway
104 damage resulting from accidents, severe weather conditions, acts of God or vandalism.