

# VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

## CHAPTER 25

*An Act to amend and reenact §§ 10.1-107 and 33.1-223 of the Code of Virginia, relating to general powers of the Department of Conservation and Recreation; construction and maintenance of access roads or bikeways to historic sites.*

[S 842]

Approved March 20, 2005

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

**1. That §§ 10.1-107 and 33.1-223 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-107. General powers and duties of the Board.

A. The Board shall advise the Governor and the Director on activities of the Department. Upon the request of the Governor, or the Director, the Board shall institute investigations and make recommendations.

The Board shall formulate recommendations to the Director concerning:

1. Requests for grants or loans pertaining to outdoor recreation.
2. Designation of recreational ~~and historical~~ sites eligible for recreational access road funds.
3. Designations proposed for scenic rivers, scenic highways, and Virginia byways.
4. Acquisition of real property by fee simple or other interests in property for the Department including, but not limited to, state parks, state recreational areas, state trails, greenways, natural areas and natural area preserves, and other lands of biological, environmental, historical, recreational or scientific interest.

5. Acquisition of bequests, devises and gifts of real and personal property, and the interest and income derived therefrom.

6. Stage one and stage two plans, master plans, and substantial acquisition or improvement amendments to master plans as provided in § 10.1-200.1.

B. The Board shall have the authority to promulgate regulations necessary for the execution of the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of this title and for the execution of the Public Beach Conservation and Development Act, Article 2 (§ 10.1-705 et seq.) of Chapter 7 of this title.

C. The Board shall assist the Department in the duties and responsibilities described in Subtitle I (§ 10.1-100 et seq.) of Title 10.1.

D. The Board is authorized to conduct fund-raising activities as deemed appropriate and will deposit such revenue into the State Parks Projects Fund pursuant to subsection D of § 10.1-202.

§ 33.1-223. Fund for access roads and bikeways to public recreational areas and historical sites; construction, maintenance, etc., of such facilities.

A. The General Assembly finds and declares that there is an increasing demand by the public for more public recreational areas throughout the Commonwealth, therefore creating a need for more access to these areas. There are also many sites of historical significance to which access is needed.

The General Assembly hereby declares it to be in the public interest that access roads and bikeways to public recreational areas and historical sites be provided by using funds obtained from motor fuel tax collections on motor fuel used for propelling boats and ships and funds contained in the highway portion of the Transportation Trust Fund.

B. The Commonwealth Transportation Board shall, from funds allocated to the primary system, secondary system, or urban system of state highways, set aside the sum of ~~three~~ \$3 million ~~dollars~~ initially. This fund shall be expended by the Board for the construction, reconstruction, maintenance or improvement of access roads and bikeways within counties, cities and towns. At the close of each succeeding fiscal year the Board shall replenish this fund to the extent it deems necessary to carry out the purpose intended, provided the balance in the fund plus the replenishment does not exceed the aforesaid ~~three~~ \$3 million ~~dollars~~.

C. Upon the setting aside of the funds as herein provided, the Commonwealth Transportation Board shall construct, reconstruct, maintain or improve access roads and bikeways to public recreational areas and historical sites upon the following conditions:

1. When the Director of the Department of Conservation and Recreation has designated a public recreational area as such or ~~an~~ *when the Director of the Department of Historic Resources has determined a site or area to be historic area as such* and recommends to the Commonwealth Transportation Board that an access road or bikeway be provided or maintained to that area;

2. When the Commonwealth Transportation Board pursuant to the recommendation from the Director of the Department of Conservation and Recreation declares by resolution that the access road or bikeway be provided or maintained;

3. When the governing body of the county, city or town in which the access road or bikeway is to be provided or maintained passes a resolution requesting the road; and

4. When the governing body of the county, city or town in which the bikeway is to be provided or maintained adopts an ordinance pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2.

No access road or bikeway shall be constructed, reconstructed, maintained or improved on privately owned property.

D. Any access road constructed, reconstructed, maintained or improved pursuant to the provisions of this section shall become part of the primary system of state highways, the secondary system of state highways or the road system of the locality in which it is located in the manner provided by law, and shall thereafter be constructed, reconstructed, maintained and improved as other roads in such systems. Any bikeway path constructed, reconstructed, maintained, or improved pursuant to the provisions of this section which is not situated within the right-of-way limits of an access road which has become, or which is to become, part of the primary system of state highways, the secondary system of state highways, or the road system of the locality, shall, upon completion, become part of and be regulated and maintained by the authority or agency maintaining the public recreational area or historical site. It shall be the responsibility of the authority, agency, or locality requesting that a bicycle path be provided for a public recreational or historical site to provide the right-of-way needed for the construction, reconstruction, maintenance, or improvement of the bicycle path if such is to be situated outside the right-of-way limits of an access road.

To maximize the impact of the Fund, not more than \$400,000 of recreational access funds may be allocated for an access road to any facility operated by a state agency and not more than \$250,000 for an access road for a facility operated by a locality or an authority with an additional \$100,000 if supplemented on a dollar-for-dollar basis by the locality or authority from other than highway sources. Not more than \$75,000 of recreational access funds may be allocated to any specific bikeway operated by a state agency and not more than \$60,000 to a bikeway operated by a locality or an authority with an additional \$15,000 if supplemented on a dollar-for-dollar basis by a locality or authority from other than highway sources.

The Commonwealth Transportation Board, with the concurrence of the Director of the Department of Conservation and Recreation, is hereby authorized to make regulations to carry out the provisions of this section.