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SENATE BILL NO. 329

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 33.1-1, 33.1-2, 33.1-12, 33.1-12.1, 33.1-23.1, 33.1-23.2, 33.1-23.4, 33.1-23.5:1, 33.1-25, 33.1-31, 33.1-32, 33.1-34, 33.1-35, 33.1-39, 33.1-41.1, 33.1-42, 33.1-44, 33.1-46, 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 through 33.1-88, 33.1-268, 33.1-269, 33.1-277, 33.1-285.1, 33.1-416, 33.1-436, 46.2-815, 46.2-1149.2, 58.1-815.1, 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.

Patron—Wagner

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. 1. That §§ 33.1-1, 33.1-2, 33.1-12, 33.1-12.1, 33.1-23.1, 33.1-23.2, 33.1-23.4, 33.1-23.5:1, 33.1-25, 33.1-31, 33.1-32, 33.1-34, 33.1-35, 33.1-39, 33.1-41.1, 33.1-42, 33.1-44, 33.1-46, 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 through 33.1-88, 33.1-268, 33.1-269, 33.1-277, 33.1-285.1, 33.1-416, 33.1-436, 46.2-815, 46.2-1149.2, 58.1-815.1, 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, and 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 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

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59 Highway Commissioner" or "State Highway and Transportation Commissioner" shall mean
60 "Commonwealth Transportation Commissioner"; and all references to "Department of Highways and
61 Transportation" shall refer to the Department of Transportation.

62 § 33.1-2. Residence requirements; statewide interest.

63 Of such Board, one member shall be a resident of the territory now included in the Bristol
64 construction district, one in the Salem construction district, one in the Lynchburg construction district,
65 one in the Staunton construction district, one in the Culpeper construction district, one in the
66 Fredericksburg construction district, one in the Richmond construction district, one in the Hampton
67 Roads construction district and one in the Northern Virginia construction district *each of the seven*
68 *regions established in § 33.12-23.05.* The remaining five members shall be appointed from the
69 Commonwealth at large, but at least two shall reside in standard metropolitan statistical areas and be
70 designated as urban at-large members, and at least two shall reside outside standard metropolitan
71 statistical areas and be designated as rural at-large members. The at-large members shall be appointed to
72 represent rural and urban transportation needs and be mindful of the concerns of seaports and seaport
73 users, airports and airport users, railways and railway users, and mass transit and mass transit users.
74 Each member so appointed shall be mindful of the best interest of the Commonwealth at large primarily
75 instead of those of the district from which chosen or of the transportation interest represented.

76 § 33.1-12. (Effective until October 1, 2005) General powers and duties of Board, etc.; definitions.

77 The Commonwealth Transportation Board shall be vested with the following powers and shall have
78 the following duties:

79 (1) Location of routes. - To locate and establish the routes to be followed by the roads comprising
80 systems of state highways between the points designated in the establishment of such systems.

81 (2) Construction and maintenance contracts and activities related to passenger and freight rail and
82 public transportation.

83 (a) To let all contracts to be administered by the Virginia Department of Transportation or the
84 Department of Rail and Public Transportation for the construction, maintenance, and improvement of the
85 roads comprising systems of state highways and for all activities related to passenger and freight rail and
86 public transportation in excess of \$2 million. The Commonwealth Transportation Commissioner shall
87 have authority to let all Virginia Department of Transportation-administered contracts for highway
88 construction, maintenance, and improvements up to \$2 million in value. The Director of the Department
89 of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail
90 and public transportation improvements up to \$2 million in value. The Commonwealth Transportation
91 Commissioner is authorized to enter into agreements with localities, authorities, and transportation
92 districts to administer projects and to allow those localities, authorities, and transportation districts to let
93 contracts for highway construction, maintenance, and improvements within their jurisdictions. The
94 Director of the Department of Rail and Public Transportation is authorized to enter into agreements with
95 localities, authorities, and transportation districts to administer projects and to allow those localities,
96 authorities, and transportation districts to let contracts for passenger and freight rail and public
97 transportation activities within their jurisdictions. The Commonwealth Transportation Commissioner and
98 the Director of the Department of Rail and Public Transportation shall report on their respective
99 transportation contracting activities at least quarterly to the Board.

100 (b) The Commonwealth Transportation Board may award contracts for the construction of
101 transportation projects on a design-build basis. The Board may annually award five design-build
102 contracts valued no more than \$20 million. The Board may also award design-build contracts valued
103 more than \$20 million, provided that no more than five of these latter contracts are in force at the same
104 time. These contracts may be awarded after a written determination is made by the Commonwealth
105 Transportation Commissioner or the Director of the Department of Rail and Public Transportation,
106 pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that
107 delivery of the projects must be expedited and that it is not in the public interest to comply with the
108 design and construction contracting procedures normally followed. Such objective criteria will include
109 requirements for prequalification of contractors and competitive bidding processes. These contracts shall
110 be of such size and scope to encourage maximum competition and participation by agency prequalified
111 and otherwise qualified contractors. Such determination shall be retained for public inspection in the
112 official records of the Department of Transportation or the Department of Rail and Public
113 Transportation, as the case may be, and shall include a description of the nature and scope of the project
114 and the reasons for the Commissioner's or Director's determination that awarding a design-build contract
115 will best serve the public interest. The provisions of this section shall supersede contrary provisions of
116 subsection D of § 2.2-4303 and § 2.2-4306.

117 (c) For transportation construction projects valued in excess of \$100 million, the Commonwealth
118 Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be
119 limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an
120 implementation plan with the project schedule and cost-to-complete information presented for each year;

(iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed cash-flow analysis for each year of the proposed project.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

(6) Information and statistics. - To gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites may be used to satisfy this requirement. Project specific information posted on the Internet shall be updated daily as information is available.

(7) Policies and operation of Departments. - To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation, respectively.

(8) Cooperation with other agencies and local governments.

(a) To cooperate with the federal government, the American Association of State Highway and Transportation Officials and any other organization in the numbering, signing and marking of highways, in the taking of measures for the promotion of highway safety, in research activities, in the preparation of standard specifications, in the testing of highway materials and otherwise with respect to transportation projects.

(b) To offer technical assistance and coordinate state resources to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

(9) Transportation.

(a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

(c) To recommend to the General Assembly for their consideration at the next session of the General Assembly, objective criteria to be used by the Board in selecting those transportation projects to be advanced from the feasibility to the construction stage. If such criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban systems of highways.

(d) To enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

(10) Contracts with other states. - To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(11) Use of funds. - To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion

182 of the project. However this requirement shall not apply to debt service apportionments pursuant to
183 § 33.1-23.3 or 33.1-23.4.

184 (12) Financial and investment advisors. - With the advice of the Secretary of Finance and the State
185 Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without
186 the government of the Commonwealth, to assist in planning and making decisions concerning the
187 investment of funds and the use of bonds for transportation purposes. The work of these advisors shall
188 be coordinated with the Secretary of Finance and the State Treasurer.

189 (13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1
190 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way
191 diminished by the provisions of this title.

192 (14) To enter into payment agreements with the Treasury Board related to payments on bonds issued
193 by the Commonwealth Transportation Board.

194 (15) Outdoor theaters. - By regulation:

195 (a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be
196 ordinarily visible from any highway;

197 (b) To require that a sufficient space is left between any highway and the entrance to any outdoor
198 theater to prevent congestion on the highway; and

199 (c) To require that outdoor theater entrances and exits are adequately lighted and marked.

200 Throughout this title the term "systems of state highways" shall have the meaning ascribed thereto by
201 § 1-13.40.

202 The term "public transportation" or "mass transit" as used in this title means passenger transportation
203 by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general
204 public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing
205 service; vehicular ferry service which serves as a link in the highway network; or human service agency
206 or other client-restricted transportation.

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230 transportation contracting activities at least quarterly to the Board.

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234 more than \$20 million, provided that no more than five of these latter contracts are in force at the same
235 time. These contracts may be awarded after a written determination is made by the Commonwealth
236 Transportation Commissioner or the Director of the Department of Rail and Public Transportation,
237 pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that
238 delivery of the projects must be expedited and that it is not in the public interest to comply with the
239 design and construction contracting procedures normally followed. Such objective criteria will include
240 requirements for prequalification of contractors and competitive bidding processes. These contracts shall
241 be of such size and scope to encourage maximum competition and participation by agency prequalified
242 and otherwise qualified contractors. Such determination shall be retained for public inspection in the
243 official records of the Department of Transportation or the Department of Rail and Public

Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

(c) For transportation construction projects valued in excess of \$100 million, the Commonwealth Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an implementation plan with the project schedule and cost-to-complete information presented for each year; (iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed cash-flow analysis for each year of the proposed project.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of the Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

(6) Information and statistics. - To gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites may be used to satisfy this requirement. Project specific information posted on the Internet shall be updated daily as information is available.

(7) Policies and operation of Departments. - To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation, respectively.

(8) Cooperation with other agencies and local governments.

(a) To cooperate with the federal government, the American Association of State Highway and Transportation Officials and any other organization in the numbering, signing and marking of highways, in the taking of measures for the promotion of highway safety, in research activities, in the preparation of standard specifications, in the testing of highway materials and otherwise with respect to transportation projects.

(b) To offer technical assistance and coordinate state resources to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

(9) Transportation.

(a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

(c) To recommend to the General Assembly for their consideration at the next session of the General Assembly, objective criteria to be used by the Board in selecting those transportation projects to be advanced from the feasibility to the construction stage. If such criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban systems of highways.

(d) To enter into contracts with local districts, commissions, agencies, or other entities created for

transportation purposes.

(10) Contracts with other states. - To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(11) Use of funds. - To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. However this requirement shall not apply to debt service apportionments pursuant to § 33.1-23.3 or 33.1-23.4.

(12) Financial and investment advisors. - With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

(13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.

(14) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

(15) Outdoor theaters. - By regulation:

(a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be ordinarily visible from any highway;

(b) To require that a sufficient space is left between any highway and the entrance to any outdoor theater to prevent congestion on the highway; and

(c) To require that outdoor theater entrances and exits are adequately lighted and marked.

The term "public transportation" or "mass transit" as used in this title means passenger transportation by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing service; vehicular ferry service which serves as a link in the highway network; or human service agency or other client-restricted transportation.

§ 33.1-12.1. Agreements between Commissioner and certain cities and towns.

Notwithstanding the provisions of §§ 33.1-12 and ~~33.1-23.3~~, the Commonwealth Transportation Commissioner, pursuant to a resolution adopted by the Commonwealth Transportation Board and following receipt of a resolution adopted by a city or town council to which funds are apportioned pursuant to ~~§ 33.1-23.3~~ *this article*, may enter into an agreement with any such city or town pursuant to which the city or town assumes responsibility for the design, right-of-way acquisition, and construction of urban system highways or portions thereof in such city or town, using funds allocated pursuant to subdivision 2 of subsection B of § 33.1-23.1.

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

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

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

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

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

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

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

B. *A 20% match shall be provided from the allocation of highway system funds pursuant to § 33.1-23.1 for any project that receives funds pursuant to subsection A. Such match shall be from the*

allocation to the highway system on which the bridge is located.

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

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

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

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

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

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

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

The Southside Region, consisting of the Counties of Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Franklin, Greensville, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Southampton, Surry, and 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, Wise, and Wythe, 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 elected 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 *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 subdivision B 2 of § 33.1-23.1 shall be apportioned among the seven funding regions established in § 33.1-23.05 so that each funding region receives a share of such funds equal to the proportion of registered vehicles in each funding region to the total number of registered vehicles in the Commonwealth of Virginia.

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

C. Before allocating funds under the foregoing 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. Funds allocated to the regional 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.

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

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

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

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

Before allocating funds under the foregoing 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.

B. Notwithstanding other provisions of this section, not more than one-third of the annual secondary

system highway funds apportioned to a county under this section may be used to reimburse the county for (i) debt service for bonds or (ii) eligible project costs incurred on approved projects included in the county's Secondary Six-Year Plan and the county's capital improvement program. Such funds may also be used by the county 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 county's capital improvement program. Any such funds so apportioned to and received by such county, 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.

When a county presents a resolution requesting that a portion of its annual secondary construction allocation be set aside for reimbursement for, or payment of, debt service under this section for a specific eligible project, the Commonwealth Transportation Board shall, subject to appropriation and allocation, set aside no more than one-third of the anticipated annual allocation of secondary system construction funding to the county for such purpose, provided such funds have not been previously committed for projects contained in the county's Secondary Six-Year Plan.

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

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

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

As of July 1, 2006, Henrico and Arlington Counties shall be deemed to have elected not to participate in the local system of state highways for purposes of maintenance.

Notwithstanding the provisions of § 33.1-23.5, pursuant Pursuant to subsection A of § 33.1-23.1, the Commonwealth Transportation Board shall make the following payments to counties which have withdrawn or elect to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to any county having withdrawn prior to June 30, 1985, and having an area greater than 100 square miles Henrico County, an amount equal to \$3,616 per lane-mile for fiscal year 1986, and to any county having an area less than 100 square miles Arlington County, an amount equal to \$7,201 per lane-mile for fiscal year 1986; to any county that elects to withdraw from the local system on or after June 30, 1985 July 1, 2006, the Commonwealth Transportation Board shall establish a rate per lane-mile for the first year using (i) an amount for maintenance based on maintenance standards and unit costs used by the Department of Transportation to prepare its secondary system maintenance budget for the year in which the county withdraws, and (ii) an amount for administration equal to five percent of the maintenance figure determined in (i) above. The payment rates shall be adjusted annually by the Board in accordance with procedures established for adjusting payments to cities and towns under § 33.1-41.1, and lane mileage shall be adjusted annually to include (i) streets and highways accepted for maintenance in the county system by the local governing body, or (ii) streets and highways constructed according to standards set forth in the county subdivision ordinance or county thoroughfare plan, and being not less than the standards set by the Department of Transportation. Such counties shall, in addition, each receive for construction from funds allocated pursuant to subdivision B 3 of § 33.1-23.1 an annual amount calculated in the same manner as payments for construction in the state secondary local highway system are calculated.

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

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

§ 33.1-25. 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 term "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 highway systems. The term "State Highway System" shall not include the secondary local highway system of state highways. The State Highway

551 System shall be constructed and maintained by the ~~State~~ *Commonwealth* under the direction and
552 supervision of the Commonwealth Transportation Board and the Commonwealth Transportation
553 Commissioner.

554 § 33.1-31. Certain park roads in regional system.

555 All roads in the several state parks providing connections between highways, ~~either primary~~
556 ~~statewide, regional, or secondary local~~, outside of such parks and the recreation centers in such parks
557 shall continue to be and constitute portions of the ~~primary regional highway~~ system of state highways
558 and as such be constructed, reconstructed, improved and maintained *as such*.

559 All roads, bridges and toll facilities constructed by way of revenue bonds issued by the Department
560 of Conservation and Recreation shall operate under the terms of their establishment as a park facility,
561 notwithstanding the right of the Commonwealth Transportation Commissioner to use highway funds to
562 maintain them.

563 § 33.1-32. Maintenance of roads, bridges and toll facilities within boundaries of state parks.

564 The Commonwealth Transportation Commissioner may maintain all roads, bridges and toll facilities
565 situated within the boundaries of any state park heretofore or hereafter established by, and under the
566 control of, the Department of Conservation and Recreation. For the purpose of maintaining the roads in
567 any such park the Commonwealth Transportation Commissioner may expend funds under his control and
568 available for expenditures upon the maintenance of roads in the ~~secondary local~~ system of state
569 highways in the county or counties in which such state park is located. This section shall not affect the
570 jurisdiction, control and right to establish such roads, bridges and toll facilities which are now vested in
571 the Department of Conservation and Recreation.

572 § 33.1-34. Transfer of roads from local highway system to regional and statewide highway systems;
573 additions to statewide highway system.

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

582 § 33.1-35. Transfer of roads, etc., from regional or statewide systems to local system.

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

590 No resolution for any such transfer shall be adopted until (4) (i) notice of intention to propose the
591 same for adoption shall have been given for ~~sixty~~ 60 days to the governing body of each county, city
592 and town in which is located any part of any such roads, bridges and streets proposed to be transferred;
593 and (2) (ii) if any such governing body requests, a public hearing is held on such proposal.

594 § 33.1-39. Bypasses through or around cities and towns.

595 The Commonwealth Transportation Commissioner may acquire by gift, purchase, exchange,
596 condemnation or otherwise, such lands or interest therein, necessary or proper for the purpose, and may
597 construct and improve thereon such bypasses or extensions and connections of the ~~primary system~~
598 ~~regional or statewide system~~ of state highways through or around cities and ~~incorporated~~ towns, as the
599 Board may deem necessary for the uses of the State Highway System; provided, that the respective
600 cities and the incorporated towns of ~~3,500~~ 5,000 population, or more, by action of their governing
601 bodies agree to participate in accordance with the provisions of § 33.1-44 in all costs of such
602 construction and improvement, including the cost of rights-of-way, on that portion of any such bypass or
603 extension which is located within any such city or incorporated town. The maintenance of that portion
604 of a bypass or extension located within a city or incorporated town shall be borne by the city or town.
605 However, the Board shall contribute to such maintenance in accordance with the provisions of law
606 governing its contribution to the maintenance of streets, roads and bridges in such cities and
607 incorporated towns. The location, form and character of informational, regulatory and warning signs,
608 curb and pavement or other markings and traffic signals installed or placed by any public authority shall
609 be subject to the approval of the Commissioner. At both ends of bypasses through or around cities and
610 incorporated towns the Commissioner shall erect and maintain adequate directional signs of sufficient
611 size and suitable design to indicate clearly the main route or routes leading directly into such cities and
612 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 connection under § 33.1-41.1.

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

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

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

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

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least 50 feet wide and (ii) a hard-surface width of at least 30 feet; or (b) has (i) an unrestricted right-of-way at least 80 feet wide, (ii) a hard-surface width of at least 24 feet, and (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way at least 40 feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of Transportation; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation or (ii) has constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; or (g) is a street functionally classified as a local street and constructed on or after January 1, 1996, which at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current edition of the subdivision street requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.); (h) is a street previously eligible to receive street payments that is located in a city having a population of at least 200,000 but no more than 250,000 and is closed to public travel, pursuant to legislation enacted by the governing body of the city in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

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

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

674 equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile
675 for collector roads and local streets.

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

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

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

688 § 33.1-42. Incorporation into state highway system of connecting streets and roads in certain other
689 towns and cities; maintenance, etc., costs.

690 The Commonwealth Transportation Board may, by and with the consent of the Governor and the
691 governing body of any incorporated town or city having a population of ~~3,500~~ 5,000 inhabitants or less,
692 incorporate in the State Highway System such streets and roads or portions thereof in such incorporated
693 town or city as may in its judgment be best for the handling of traffic through such town or city from
694 or to any road in the State Highway System and may, in its discretion, eliminate any of such roads or
695 streets or portions thereof from the State Highway System. Every such action of the Commonwealth
696 Transportation Board incorporating any such road or street or portion thereof in the State Highway
697 System or eliminating it therefrom, shall be recorded in its minutes.

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

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

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

710 § 33.1-44. Matching highway funds; funding of local system construction projects in cities and towns
711 with populations of 5,000 or more.

712 In any case in which an act of Congress requires that federal-aid highway funds made available for
713 the construction or improvement of federal or state highways be matched, the Commonwealth
714 Transportation Board shall contribute such matching funds. However, in the case of municipalities of
715 ~~3,500~~ 5,000 or more population eligible for an allocation of construction funds for urban highways
716 under § 33.1-23.3 and the Town of Wise, the Town of Lebanon, and the Town of Altavista, the Board
717 may contribute toward the cost of construction of any federal-aid highway or street local system project
718 ~~ninety-eight percent~~ 98% of the necessary funds, including the federal portion, if the municipality
719 contributes the other two percent, and provided further, that within such municipalities the Board may
720 contribute all the required funds on highways in the ~~interstate system~~ statewide or regional systems.

721 In the case of municipalities of ~~3,500~~ or more population eligible for an allocation of construction
722 funds for urban highways under § 33.1-23.3 and the Town of Wise, the Town of Lebanon, and the
723 Town of Altavista, the Commonwealth Transportation Board may contribute toward the costs of
724 construction or improvement of any highway or street project for which no federal-aid highway funds
725 are made available ~~ninety-eight percent~~ of the necessary funds if the municipality contributes the other
726 two percent.

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

731 In the case of municipalities of less than ~~3,500~~ 5,000 in population that on June 30, 1985,
732 maintained certain streets under § 33.1-80 as then in effect, the Commonwealth Transportation Board
733 shall contribute toward the costs of construction or improvement of any highway or street local system
734 project 100 percent% of the necessary funds. The contribution authorized by this paragraph shall be in
735 addition to any other contribution, and projects established in reference to municipalities of less than

3,500 5,000 in population shall not in any way be interpreted to change any other formula or manner for the distribution of funds to such municipalities for construction, improvement or maintenance of highways or streets. The Board may accept from a municipality, for right-of-way purposes, contributions of real estate to be credited, at fair market value, against the matching obligation of such municipality under the provisions of this section.

The term "construction or improvement" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, 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 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 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. Character of signs, etc., in event of matching public funds.

On any ~~urban~~ *local system* highway upon which the Board has expended funds in the manner provided in ~~§§ 33.1-23.3 and~~ § 33.1-44, 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.

§ 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 Editor's 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

797 been so designated and have been appropriately marked with such signs or other markers as the Board
798 may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of
799 buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under
800 its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such
801 HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant
802 to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for
803 the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified
804 number of occupants as determined by the Board or, for HOV lanes designated by a local governing
805 body, by that local governing body. Notwithstanding the foregoing provisions of this section, no
806 designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes
807 by:

- 808 1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,
- 809 2. Law-enforcement vehicles,
- 810 3. Motorcycles,
- 811 4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,
- 812 b. Commuter buses and motor coaches operating under irregular route passenger certificates issued
813 under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or
814 as a common carrier of passengers under § 46.2-2075 or § 46.2-2080,
- 815 5. Vehicles of public utility companies operating in response to an emergency call,
- 816 6. Until July 1, 2006, vehicles bearing clean special fuel vehicle license plates issued pursuant to
817 § 46.2-749.3, or
- 818 7. Taxicabs having two or more occupants, including the driver.

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

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

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

833 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing
834 body as the case may be, shall specify the hour or hours of each day of the week during which the
835 lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the
836 lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a
837 designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be
838 a moving violation and on conviction shall be fined \$50. However, violations committed within the
839 boundaries of Planning District Eight shall be punishable as follows:

- 840 For a first offense, by a fine of \$50;
- 841 For a second offense within a period of five years from a first offense, by a fine of \$200;
- 842 For a third offense within a period of five years from a first offense, by a fine of \$500; and
- 843 For a fourth or subsequent offense within a period of five years from a first offense, by a fine of
844 \$1,000.

845 Upon a conviction under this section, the court shall furnish to the Commissioner of the Department
846 of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which
847 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
848 driver demerit points shall be assessed for any violation of this section; except that persons convicted of
849 third, fourth, or subsequent violations within five years of a first offense committed in Planning District
850 Eight shall be assessed three demerit points for each such violation.

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

859 accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of
860 the vehicle is a rental or leasing company.

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

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

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

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

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

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

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

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

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

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

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

888 G. [Repealed.]

889 § 33.1-46.2. (For effective date /- See Editor's note) Designation of high-occupancy vehicle lanes; use
890 of such lanes; penalties.

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

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

907 2. Law-enforcement vehicles,

908 3. Motorcycles,

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

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

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

914 6. Until July 1, 2004, vehicles bearing clean special fuel vehicle license plates issued pursuant to
915 § 46.2-749.3, or

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

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

920 highway.

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

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

931 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing
932 body as the case may be, shall specify the hour or hours of each day of the week during which the
933 lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the
934 lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a
935 designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be
936 a moving violation and on conviction shall be fined \$50. However, violations committed within the
937 boundaries of Planning District Eight shall be punishable as follows:

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

939 For a second offense within a period of five years from a first offense, by a fine of \$200;

940 For a third offense within a period of five years from a first offense, by a fine of \$500; and

941 For a fourth or subsequent offense within a period of five years from a first offense, by a fine of
942 \$1,000.

943 Upon a conviction under this section, the court shall furnish to the Commissioner of the Department
944 of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which
945 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
946 driver demerit points shall be assessed for any violation of this section; except that persons convicted of
947 third, fourth, or subsequent violations within five years of a first offense committed in Planning District
948 Eight shall be assessed three demerit points for each such violation.

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

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

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

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

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

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

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

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

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

981 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 and 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.

1043 The cost of relocating or removing such utility facilities in connection with any project on the
 1044 ~~interstate~~ *statewide* system or ~~primary~~ *regional* system within counties is hereby declared to be a cost of
 1045 highway construction.

1046 § 33.1-61. Parallel service roads; standards for access, service, etc., roads.

1047 The Board may construct service roads parallel to a limited access highway in order to provide
 1048 access at designated points for property owners abutting on the limited access highway and after the
 1049 construction of such service roads shall maintain and regulate traffic over them.

1050 The construction or alteration of any access, feeder or service road which is to serve properties
 1051 isolated by construction of a limited access highway shall meet all minimum state standards or the
 1052 standards of the cities or towns of more than 3,500 5,000 population, or of counties which maintain
 1053 their own road networks, as provided for by ordinance, whichever is more strict.

1054 Article 6.

1055 *Secondary Local System of State Highways.*

1056 § 33.1-67. Local system of highways.

1057 The ~~secondary~~ *local* system of state highways shall ~~consist of~~ *include* all of the public roads,
 1058 causeways, bridges, landings and wharves in the several counties of the Commonwealth not included in
 1059 the State Highway System; including such roads and community roads leading to and from public school
 1060 buildings, streets, causeways, bridges, landings and wharves in incorporated towns having 3,500
 1061 inhabitants or less according to the census of 1920, and in all towns having such a population
 1062 incorporated since 1920, as constitute connecting links between roads in the secondary system in the
 1063 several counties and between roads in the secondary system and roads in the primary system of the state
 1064 highways, not, however, to exceed two miles in any one town. If in any such town, which is partly
 1065 surrounded by water, less than two miles of the roads and streets therein constitute parts of the
 1066 secondary system of state highways, the Commonwealth Transportation Board shall, upon the adoption
 1067 of a resolution by the council or other governing body of such town designating for inclusion in the
 1068 secondary system of state highways certain roads and streets in such town not to exceed a distance of
 1069 two miles, less the length of such roads and streets in such town which constitute parts of the secondary
 1070 system of state highways, accept and place in the secondary system of state highways such additional
 1071 roads and streets.

1072 § 33.1-68. Certain school roads in local highway system.

1073 All roads leading from the state highways, either ~~primary or secondary~~, *statewide, regional, or local*
 1074 *system highways* to public schools in the counties of the Commonwealth to which school buses are
 1075 operated shall continue to constitute portions of the ~~secondary local highway~~ system of state highways
 1076 insofar as these roads lead to or are on school property and as such shall be improved and maintained.

1077 § 33.1-69. Control, supervision and management.

1078 The control, supervision, management and jurisdiction over the ~~secondary system of state local~~
 1079 *highway system* highways shall be vested in the Department of Transportation and the maintenance and
 1080 improvement, including construction and reconstruction, of such ~~secondary local highway~~ system of state
 1081 *highways within counties* shall be by the Commonwealth under the supervision of the Commonwealth
 1082 Transportation Commissioner. The boards of supervisors or other governing bodies of the several
 1083 counties and the county road board or county road commission of any county operating under a county
 1084 road board or county road commission shall have no control, supervision, management and jurisdiction
 1085 over such public roads, causeways, bridges, landings and wharves, constituting the ~~secondary local~~
 1086 *system of state highways*. Except as otherwise provided in this article, the Commonwealth
 1087 Transportation Board shall be vested with the same powers, control and jurisdiction over the ~~secondary~~
 1088 *local highway* system of state highways in the several counties and towns of the Commonwealth, and
 1089 such additions as may be made from time to time, as were vested in the boards of supervisors or other
 1090 governing bodies of the several counties or in the county road board or county road commission in any
 1091 county operating under a county road board or county road commission on June 21, 1932, and in
 1092 addition thereto shall be vested with the same power, authority and control as to the ~~secondary local~~
 1093 *highway* system of state highways as is vested in the Board in connection with the State Highway
 1094 System.

1095 § 33.1-69.01. Department to install and maintain certain signs.

1096 Whenever so requested by the governing body of a county, the Department of Transportation shall
 1097 install a system of street name signs on state-maintained highways at such time and upon such terms
 1098 and conditions as may be mutually agreed to between the county and the Commonwealth Transportation
 1099 Commissioner.

1100 The Department shall install, using state forces or contract, the initial signing system and the county
 1101 shall be responsible for continuing maintenance of the signs. Supply of the signs by the Department,
 1102 either by manufacture or purchase, and initial installation shall be paid for from appropriate ~~secondary~~
 1103 *local highway* system construction funds allocated to the county or from ~~primary~~ *statewide* system or
 1104 *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 representatives of the Department of Transportation 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. 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 once a week for two successive weeks, and posting notice of the proposed hearing at the front door of the courthouse of such county *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~~ *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 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

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

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

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

If any county cancels any highway construction or improvement project included in its six-year plan after the Commonwealth Transportation Board has adopted the location and design for the project, such county 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 on which project development was initiated and the date of cancellation. To the extent that funds from secondary road allocations pursuant to ~~§ 33.1-23.4~~ have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary allocation. The board may waive all or any portion of such reimbursement at its discretion.

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

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

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

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

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

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

2. The Commonwealth Transportation Commissioner, after having considered only (i) the safety of such road in its current condition and in its paved or improved condition, including the desirability of reduced speed limits and installation of other warning signs or devices, (ii) the views of the residents and owners of property adjacent to or served by such road, (iii) the views of the governing body making the request, (iv) the historical and aesthetic significance of such road and its surroundings, (v) the availability of any additional land that has been or may be acquired by gift or other means for the purpose of paving such road within its existing right-of-way or within a wider right-of-way that is less

than 40 feet wide, and (vi) environmental considerations, shall grant or deny the request for the paving of such road under this subsection.

C.B. Notwithstanding the *foregoing* provisions of ~~subsections A and B~~ *this section*, the governing body of any county *or municipality*, in consultation with the Department, may designate a road or road segment as a Rural Rustic Road provided such road or road segment is located in a low-density development area and has an average daily traffic volume of no more than 500 vehicles per day. For a road or road segment so designated, improvements shall utilize a paved surface width based on reduced and flexible standards that leave trees, vegetation, side slopes and open drainage abutting the roadway undisturbed to the maximum extent possible without compromising public safety. The Department, in consultation with the affected local governing body, shall first consider the paving of a road or road segment meeting the criteria for a Rural Rustic Road in accordance with this subsection before making a decision to pave it to another standard as set forth in this section. The provisions of this subsection shall 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 local highway 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, 1992, 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~~ system of *state highways*.

C. "Speculative interest," as used in this section means that the original developer or a successor developer retains ownership in any lot abutting such street for development or speculative purposes. 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 prescribed in subsection G of this section as a condition of the county's recommendation pursuant to this section.

D. "Qualifying rural addition cost," as used in this section, means that portion of the estimated engineering and construction cost to improve the street to the minimum standards for acceptance remaining after reducing the total estimated cost by any prorated amount deemed the responsibility of others based on speculative interests as defined in subsection C.

E. 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 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 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.

F. Such street shall only be taken into the ~~secondary local highway~~ system of state highways if the governing body of the county has identified and made available the funds required to improve the street to the required minimum standards. The county may consider the following options to fund the required improvements for streets accepted under this section:

1. The local governing body of the county may use a portion of the county's annual ~~secondary local~~ highway system construction allocation designated as "rural addition funds" to fund the qualifying rural addition costs for qualifying streets if the county agrees to contribute from county revenue or the special assessment of the landowners on the street in question one-half of the qualifying rural addition 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

1289 declarations from the owners of 75 percent or more of the platted parcels of land abutting upon such
1290 street stating their acquiescence in such assessments. The basis for such special assessments, at the
1291 option of the local governing body, shall be either (i) the proportion the value of each abutting parcel
1292 bears to total value of all abutting parcels on such street as determined by the current evaluation of the
1293 property for real estate tax purposes, or (ii) the proportion the abutting road front footage of each parcel
1294 abutting the street bears to the total abutting road front footage of all parcels abutting on the street, or
1295 (iii) an equal amount for each parcel abutting on such street. No such special assessment on any parcel
1296 shall exceed one-third of the current evaluation of such property for real estate tax purposes. Special
1297 assessments under this section shall be conducted in the manner provided in Article 2 (§ 15.2-2404 et
1298 seq.) of Chapter 24 of Title 15.2, mutatis mutandis, for assessments for local improvements.

1299 2. The local governing body of any county may use a portion of its annual ~~secondary~~ *local* highway
1300 system construction allocation designated as "rural addition funds" to fund the qualifying rural addition
1301 cost for qualifying streets within the limitation of funds and the mileage limitation of the
1302 Commonwealth Transportation Board's policy on rural additions.

1303 3. The local governing body of any county may use revenues derived from the sale of bonds to
1304 finance the construction of rural additions to the ~~secondary~~ *local* system of such county. In addition,
1305 from the funds allocated by the Commonwealth for the construction of secondary road improvements,
1306 such governing body may use funds allocated within the Commonwealth Transportation Board policy for
1307 the construction of rural additions to pay principal and interest on bonds associated with rural additions
1308 in such county, provided the revenue derived from the sale of such bonds is not used as the county
1309 matching contribution under § 33.1-75.1. The provisions of this section shall not constitute a debt or
1310 obligation of the Commonwealth Transportation Board or the Commonwealth of Virginia.

1311 4. The local governing body of the county may expend general county revenue for the purposes of
1312 this section.

1313 5. The local governing body of the county may permit one or more of the landowners on the street
1314 in question to pay to the county a sum equal to one-half of the qualifying rural addition cost to bring
1315 the street up to the necessary minimum standards for acceptance into the ~~secondary~~ *local* highway
1316 system of ~~state~~ *highways*, which funds the county shall then utilize for such purpose. Thereafter, upon
1317 collection of the special assessment of landowners on such street, the county shall use such special
1318 assessment funds to reimburse, without interest, the one or more landowners for those funds which they
1319 previously advanced to the count to bring the street up to the necessary minimum standards for
1320 acceptance.

1321 6. The local governing body of the county may utilize the allocations made to the county in
1322 accordance with § 33.1-75.1.

1323 G. In instances where it is determined that speculative interest, as defined in subsection C, exists the
1324 basis for the pro rata percentage required of such developer, developers, or successor developers shall be
1325 the proportion that the value of the abutting parcels owned or partly owned by the developer,
1326 developers, or successor developers bears to the total value of all abutting property as determined by the
1327 current evaluation of the property for real estate purposes. The pro rata percentage shall be applied to
1328 the Department of Transportation's total estimated cost to construct such street to the necessary
1329 minimum standards for acceptance to determine the amount of costs to be borne by the developer,
1330 developers, or successor developers. Property so evaluated shall not be assessed in the special
1331 assessment for the determination of the individual pro rata share attributable to other properties. Further,
1332 when such pro rata participation is accepted by the governing body of the county from such original
1333 developer, developers, or successor developers, such amount shall be deducted from the Department of
1334 Transportation's total estimated cost and the remainder of such estimated cost, the qualifying rural
1335 addition cost, shall then be the basis of determining the assessment under the special assessment
1336 provision or determining the amount to be provided by the county when funded from general county
1337 revenue under subsection C of this section or determining the amount to be funded as a rural addition
1338 under subsection D of this section.

1339 H. Acceptance of any street into the ~~secondary~~ *local* highway system of ~~state~~ *highways* for
1340 maintenance, improvement, construction, and reconstruction shall not impose any obligation on the
1341 Board to acquire any additional right-of-way or easements should they be necessary by virtue of faulty
1342 construction or design.

1343 I. "Rural addition funds" means those funds reserved from the county's annual allocation of
1344 ~~secondary~~ *local* highway system ~~highway~~ construction funds, as defined in § 33.1-67, for the purpose of
1345 this section. If such funds are not used by such county for such purpose during the fiscal year they are
1346 so allocated, the funds may be held for such purpose for the four succeeding fiscal years. A maximum
1347 of five percent of the annual secondary system highway construction allocation may be reserved by the
1348 governing body for rural additions.

1349 § 33.1-75.1. Special revenue sharing funds for systems in certain counties.

1350 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~~ *statewide, regional, and local highway system* roads in such county. That portion so designated by the governing body for construction shall be allocated to specific projects by the Board; that portion designated by the governing body for maintenance or improvement shall be allocated to specific roads by the governing body. The county shall pay over to the Board that amount of its special fund account needed for a project upon notice by the Board of its intent to proceed with the project. Projects identified by the board of supervisors for construction with county general funds as provided in this section need not be included in the county's six-year plan.

B. Upon indication by the Department of Transportation that a project or projects funded pursuant to subsection A of this section cannot be implemented by the Department 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, regional, or local highway system construction 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, *33.1-23.3:1*, 33.1-23.4, or 33.1-75.1.

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

D. Notwithstanding any contrary provision of law, any county may undertake activities towards the design, land acquisition, or construction of ~~primary or secondary~~ *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~~ *statewide 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.

E. If funding for the construction of a ~~primary or interstate~~ *statewide, regional, or local highway system* project is scheduled in the Commonwealth Transportation Board's Six-Year Improvement Program as defined in § 33.1-12, a locality may choose to advance funds to the project. If such advance is offered, the Board may consider such request and agree to such advancement and the subsequent reimbursement of the locality of the advance in accordance with terms agreed upon by the Board or its designee and the locality.

§ 33.1-79. Maintenance, etc., of streets and roads in certain towns from local highway system 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, 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 miles of streets or roads in such incorporated towns included in the ~~secondary~~ *local highway system* of highways, whether such 2 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 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. Maps of local highway system.

The Commissioner shall prepare and keep on file in his office for public inspection a complete map for each county showing the route of the ~~secondary~~ *local* system of state highways.

§ 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 StateCommonwealth?

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 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 local 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 system of state highways.

§ 33.1-88. Machinery, etc., owned by returning 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.

§ 33.1-268. Definitions.

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

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

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

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

(b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County, across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at

- 1535 some other feasible point in the general vicinity of the two respective points.
- 1536 (c), (d) [Reserved.]
- 1537 (e) James River Bridge, from a point at or near Jamestown, in James City County, across the James
- 1538 River to a point in Surry County.
- 1539 (f), (g) [Reserved.]
- 1540 (h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting
- 1541 roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.
- 1542 (i) [Reserved.]
- 1543 (j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points
- 1544 in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton
- 1545 Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.
- 1546 (k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection
- 1547 of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge
- 1548 and Primary Route 60.
- 1549 (l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River
- 1550 in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges
- 1551 of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property,
- 1552 rights, easements and franchises relating to any of the foregoing projects and deemed necessary or
- 1553 convenient for the operation thereof and to include approaches thereto.
- 1554 (m) The limited access highway between the Patrick Henry Airport area and the Newport News
- 1555 downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.
- 1556 (n) Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls
- 1557 Church Metrorail station at Interstate Route 66 and a western terminus of Virginia Route 772 in
- 1558 Loudoun County, including without limitation the Dulles Toll Road, the Dulles Access Road, outer
- 1559 roadways adjacent or parallel thereto, mass transit, including rail, bus rapid transit, and capacity
- 1560 enhancing treatments such as High-Occupancy Vehicle lanes, High-Occupancy Toll (HOT) lanes,
- 1561 interchange improvements, commuter parking lots, and other transportation management strategies.
- 1562 (o), (p) [Repealed.]
- 1563 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a ~~primary~~
- 1564 highway transportation improvement district or transportation service district which the Board has agreed
- 1565 to finance under a contract with any such district or any other alternative mechanism for generation of
- 1566 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,
- 1567 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation
- 1568 made by the General Assembly for that purpose and payable first from revenues received under such
- 1569 contract or other local funding source, second, to the extent required, from funds appropriated and
- 1570 allocated, pursuant to the highway allocation formula as provided by law, to the ~~highway construction~~
- 1571 ~~district region, as defined in § 33.1-23.-05,~~ in which the project is located or to the county or counties
- 1572 in which the project is located and third, to the extent required from other legally available revenues of
- 1573 the Trust Fund and from any other available source of funds.
- 1574 (r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.
- 1575 (s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.
- 1576 (t) Any program for highways or mass transit or transportation facilities, endorsed by the local
- 1577 jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will
- 1578 be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the
- 1579 proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a
- 1580 "Transportation Improvement Program."
- 1581 (u) Any project designated from time to time by the General Assembly financed in whole or part
- 1582 through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.
- 1583 (3) The word "undertaking" means all of the projects authorized to be acquired or constructed under
- 1584 this article.
- 1585 (4) The word "improvements" means such repairs, replacements, additions and betterments of and to
- 1586 a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and
- 1587 efficient condition for the use of the public, if such repairs, replacements, additions and betterments are
- 1588 ordered prior to the sale of any bonds for the acquisition of such project.
- 1589 (5) The term "cost of project" as applied to a project to be acquired by purchase or by
- 1590 condemnation, includes the purchase price or the amount of the award, cost of improvements, financing
- 1591 charges, interest during any period of disuse before completion of improvements, cost of traffic
- 1592 estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and
- 1593 of revenues, other expenses necessary or incident to determining the feasibility or practicability of the
- 1594 enterprises, administrative expenses and such other expenses as may be necessary or incident to the
- 1595 financing herein authorized and the acquisition of the project and the placing of the project in operation.
- 1596 (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 Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, 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 city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required,

1658 legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be
1659 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
1660 authority of this subsection unless such project or projects are specifically included in a bill or resolution
1661 passed by the General Assembly;

1662 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
1663 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
1664 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established
1665 by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally
1666 available revenues of the Transportation Trust Fund, and (iii) such other funds which may be
1667 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
1668 authority of this subsection unless such project or projects are specifically included in a bill or resolution
1669 passed by the General Assembly;

1670 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
1671 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to
1672 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any
1673 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the
1674 discretion of the Board, to the extent required, from legally available revenues of the Transportation
1675 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly
1676 for such purpose;

1677 4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
1678 "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation
1679 by the General Assembly, solely from revenues with respect to or generated by the project or projects
1680 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in
1681 accordance with the applicable federal credit assistance authorized with respect to such project or
1682 projects by the United States Department of Transportation;

1683 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such
1684 projects;

1685 6. Construct grade separations at intersections of any projects with public highways, streets or other
1686 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
1687 same to the design of such grade separations, the cost of such grade separations and any damage
1688 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
1689 ascertained and paid by the Board as a part of the cost of the project;

1690 7. Vacate or change the location of any portion of any public highway, street or other public way or
1691 place and reconstruct the same at such new location as the Board deems most favorable for the project
1692 and of substantially the same type and in as good condition as the original highway, streets, way or
1693 place, the cost of such reconstruction and any damage incurred in vacating or changing the location
1694 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,
1695 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the
1696 manner provided by law for the vacation or relocation of public roads and any damages awarded on
1697 account thereof may be paid by the Board as a part of the cost of the project;

1698 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and
1699 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and
1700 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,
1701 or other political subdivision, public utility or public service corporation owning or operating the same
1702 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any
1703 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,
1704 county, political subdivision, public utility or public service corporation shall relocate or remove the
1705 same in accordance with the order of the Board. The cost and expense of such relocation or removal,
1706 including the cost of installing such public utility facilities in a new location or locations, and the cost
1707 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such
1708 relocation or removal shall be ascertained by the Board.

1709 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of
1710 the cost of the project for those public utility facilities owned or operated by the Commonwealth or such
1711 municipality, county, political subdivision, public utility or public service corporation. On all other
1712 projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part
1713 of the cost of the project for those public utility facilities owned or operated by the Commonwealth or
1714 such municipality, county, or political subdivision. The Commonwealth or such municipality, county,
1715 political subdivision, public utility or public service corporation may maintain and operate such public
1716 utility facilities with the necessary appurtenances, in the new location or locations, for as long a period
1717 and upon the same terms and conditions as it had the right to maintain and operate such public utility
1718 facilities in their former location or locations;

1719 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;

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; and

11. Enter into any agreements or take such other actions as the Board shall determine in connection with applying for or obtaining any federal credit assistance, including without limitation loan guarantees and lines of credit, pursuant to authorization from the United States Department of Transportation with respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program.

§ 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 provided therefor (i) from 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 shall have been appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1

1781 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the
1782 Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall
1783 be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues
1784 received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds
1785 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the
1786 highway construction district region, as defined in § 33.1-23.05, in which the project or projects to be
1787 financed are located or to the city or county in which the project or projects to be financed are located,
1788 (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such
1789 other funds which may be appropriated by the General Assembly.

1790 E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for
1791 projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the
1792 Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable
1793 solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from
1794 any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent
1795 required, revenues received pursuant to any contract with a local jurisdiction or any alternative
1796 mechanism for generation of local revenues for specific funding of a project satisfactory to the
1797 Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated,
1798 pursuant to the highway allocation formula as provided by law, to the highway construction district in
1799 which the project or projects to be financed are located or to the city or county in which the project or
1800 projects to be financed are located, (iv) to the extent required, legally available revenues from the
1801 Transportation Trust Fund, and (v) such other funds which may be appropriated by the General
1802 Assembly.

1803 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this
1804 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full
1805 faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to
1806 appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other
1807 federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion
1808 of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund,
1809 and (iii) then, from such other funds, if any, which are designated by the General Assembly for such
1810 purpose.

1811 G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued under the
1812 provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a
1813 pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely,
1814 subject to appropriation by the General Assembly, from revenues with respect to or generated by the
1815 project or projects being financed thereby and any tolls or other revenues pledged by the Board as
1816 security therefor and in accordance with the applicable federal credit assistance authorized with respect
1817 to such project or projects by the United States Department of Transportation.

1818 § 33.1-285.1. Reserve funds and appropriations.

1819 A. In connection with the Commonwealth of Virginia Transportation Contract Revenue Bonds, the
1820 Board may create and establish one or more special funds (herein referred to as "reserve funds"), and
1821 shall pay into each such reserve fund from bond proceeds and any moneys appropriated and made
1822 available by the Commonwealth for the purpose of such fund and from any other moneys which may be
1823 made available to the Board for the purpose of such fund from any other source or sources. All moneys
1824 held in any reserve fund shall be used, as required, solely for the payment of the principal and interest
1825 of Commonwealth of Virginia Transportation Contract Revenue Bonds.

1826 B. In order to further ensure maintenance of the foregoing reserve fund, the Commonwealth
1827 Transportation Commissioner shall annually, on or before December 1, make and deliver to the
1828 Governor and Director of the Budget his certificate stating the sum, if any, required to restore each such
1829 reserve fund to the minimum reserve fund requirement for such fund as may be established by the
1830 Board. Within five days after the beginning of each session of the General Assembly, the Governor shall
1831 submit to the presiding officer of each house printed copies of a budget including the sum, if any,
1832 required to restore each such reserve fund to the minimum reserve fund requirement for such fund. All
1833 sums appropriated by the General Assembly for such restoration and paid shall be deposited by the
1834 Board in the applicable reserve fund and shall be deducted from amounts otherwise allocable pursuant to
1835 the highway allocation formula as provided by law, to the highway construction district region, as
1836 defined in § 33.1-23.05, in which the project or projects are located or to the county or counties in
1837 which the project or projects financed are located.

1838 § 33.1-416. Agreements with Commonwealth Transportation Board; payment of special improvements
1839 tax to Transportation Trust Fund.

1840 The district may contract with the Commonwealth Transportation Board for the Board to perform
1841 any of the purposes of the district.

1842 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 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 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 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 district~~ *region, as defined in § 33.1-23.05*, 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.

§ 46.2-815. Hauling certain cargoes through tunnels in violation of posted signs; penalty.

The hauling of any explosive, flammable, or other hazardous cargo, as prohibited by the Department of Transportation under the authority of §§ 33.1-12 and ~~33.1-49~~, through any tunnel on any highway in the Commonwealth in violation of any lawfully posted sign shall constitute a Class 1 misdemeanor.

1904 § 46.2-1149.2. Permit authorizing transportation of tree-length logs.

1905 The Commissioner, upon application made by the owner or operator of vehicles used to transport
1906 tree-length logs, shall issue a permit authorizing the operation on the highways of such vehicles in
1907 excess of lengths authorized in Article 16 (§ 46.2-1112 et seq.) of this chapter. Such permit shall be
1908 issued in accordance with regulations promulgated as provided in Chapter 40 (§ 2.2-4000 et seq.) of
1909 Title 2.2, *and* subdivision (3) of § 33.1-12, *and* ~~§ 33.1-49.~~

1910 § 58.1-815.1. Northern Virginia Transportation District Fund.

1911 A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
1912 be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia
1913 Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the
1914 state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and
1915 Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this
1916 dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. The Fund shall
1917 also include any public rights-of-way use fees appropriated by the General Assembly; any state or local
1918 revenues, including but not limited to, any funds distributed pursuant to ~~§ 33.1-23.3, 33.1-23.4 or~~
1919 ~~33.1-23.5;+ Article 1.1~~ (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, which may be deposited into
1920 the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia
1921 Transportation District Program and the Commonwealth Transportation Board; and any other funds as
1922 may be appropriated by the General Assembly from time to time and designated for this Fund and all
1923 interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the
1924 end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the
1925 determination by the Commonwealth Transportation Board that a Category 2, 3 or 4 project or projects
1926 may be funded.

1927 B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the
1928 purposes of paying the costs of the Northern Virginia Transportation District Program which consists of
1929 the following: the Fairfax County Parkway, Route 234 Bypass, Metrorail Capital Improvements
1930 attributable to Fairfax County including Metro parking expansions, Metro Capital Improvements,
1931 including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements
1932 in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in
1933 Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail
1934 capital improvements attributable to the City of Alexandria including the King Street Metrorail Station
1935 access, Metrorail capital improvements attributable to Arlington County, including Ballston Station
1936 improvements, Route 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun
1937 County, the Route 28/Sterling Boulevard interchange in Loudoun County, Route 1/Route 123
1938 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax,
1939 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route
1940 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234 interchange
1941 improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus
1942 replacement program, and Dulles Corridor Enhanced Transit program and (ii) for Category 4 projects as
1943 provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia
1944 Transportation District Program.

1945 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be
1946 made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an
1947 amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the
1948 General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state
1949 recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this
1950 section and § 58.1-816.

1951 § 58.1-2259. Fuel uses eligible for refund.

1952 A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time
1953 shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the
1954 satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon
1955 any fuel:

1956 1. Sold and delivered to a governmental entity for its exclusive use;

1957 2. Used by a governmental entity, provided persons operating under contract with a governmental
1958 entity shall not be eligible for such refund;

1959 3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2
1960 of § 58.1-2250 for its exclusive use in the operation of an aircraft;

1961 4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250
1962 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such
1963 an organization shall not be eligible for such refund;

1964 5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed
1965 exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax

1966 applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this
 1967 section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply
 1968 tank of a highway vehicle or an aircraft;

1969 6. Used by any person performing transportation under contract or lease with any transportation
 1970 district for use in a highway vehicle controlled by a transportation district created under the
 1971 Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the
 1972 transportation district by contract or lease, provided the refund shall be paid to the person performing
 1973 such transportation;

1974 7. Used by any private, nonprofit agency on aging, designated by the Department for the Aging,
 1975 providing transportation services to citizens in highway vehicles owned, operated or under contract with
 1976 such agency;

1977 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides
 1978 specialized transportation to various locations for elderly or disabled individuals to secure essential
 1979 services and to participate in community life according to the individual's interest and abilities;

1980 9. Used in operating or propelling buses owned and operated by a county or the school board thereof
 1981 while being used to transport children to and from public school or from school to and from educational
 1982 or athletic activities;

1983 10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being
 1984 used to transport children to and from such school or from such school to and from educational or
 1985 athletic activities;

1986 11. Used by any county or city school board or any private, nonprofit, nonreligious school
 1987 contracting with a private carrier to transport children to and from public schools or any private,
 1988 nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such
 1989 transportation;

1990 12. Used in operating or propelling the equipment of volunteer firefighting companies and of
 1991 volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and
 1992 rescue purposes;

1993 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if
 1994 actually used in public activities;

1995 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

1996 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,
 1997 which is used on a job site and the movement of which on any highway is incidental to the purpose for
 1998 which it was designed and manufactured;

1999 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with
 2000 tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but
 2001 excluding fuel lost through personal negligence or theft;

2002 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

2003 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment
 2004 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or
 2005 lessee of such vehicles and not operated on or over any highway for any purpose other than to move it
 2006 in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the
 2007 taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner
 2008 into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

2009 19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to
 2010 the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be
 2011 paid by the Commissioner into the state treasury to be credited as provided in subsection D of
 2012 § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the
 2013 credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in
 2014 subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests,
 2015 the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement
 2016 Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

2017 20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if
 2018 the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to
 2019 propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while
 2020 fuel is being used from the auxiliary tank; or

2021 21. Used in operating or propelling recreational and pleasure watercraft.

2022 B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete
 2023 highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or
 2024 hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in
 2025 an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed
 2026 delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or

2027 air feed discharge systems for off-road deliveries of animal feed.

2028 2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely
2029 and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer,
2030 where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine
2031 that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such
2032 fuel.

2033 C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may
2034 apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an
2035 urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of
2036 passengers which has been issued a certificate of public convenience and necessity pursuant to
2037 §§ 46.2-2005 and 58.1-2204 providing regular route service over the highways of the Commonwealth.
2038 No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or
2039 common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a
2040 single day between their place of abode and their place of employment, shopping areas or schools.

2041 If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to
2042 engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee
2043 arrangement between the holder of the permit and the driver or drivers, if all other conditions of this
2044 section have been met.

2045 Under no circumstances shall a refund be granted more than once for the same fuel. The amount of
2046 refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on
2047 the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less \$0.01 per
2048 gallon on the fuel used.

2049 Any refunds made under this subsection shall be deducted from the urban highway funds allocated to
2050 the highway construction district, pursuant to Article 1-1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title
2051 33.1 region, as defined in § 33.1-23.05, in which the recipient has its principal place of business.

2052 Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel
2053 taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any
2054 county having withdrawn its roads from the secondary system of state highways under provisions of
2055 § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is
2056 now provided by law with respect to other fuel tax receipts.

2057 D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely
2058 and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer,
2059 where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine
2060 that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such
2061 fuel.

2062 E. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of
2063 tax paid for the fuel less discounts allowed by § 58.1-2233.

2064 F. Any person who is required to be licensed under this chapter and is applying for a refund shall
2065 not be eligible for such refund if the applicant was not licensed at the time the refundable transaction
2066 was conducted.

2067 2. That the provisions of this act shall not affect members of the Commonwealth Transportation
2068 Board appointed prior to July 1, 2006.

2069 3. 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
2070 33.1-70.2 of the Code of Virginia are repealed.