

# VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

## CHAPTER 153

*An Act to amend and reenact § 33.1-23.4 of the Code of Virginia, relating to the allocation of construction funds within the secondary system.*

[S 1059]

Approved March 9, 2007

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

**1. That § 33.1-23.4 of the Code of Virginia is amended and reenacted as follows:**

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

A. Such funds as are allocated to the secondary system of state highways pursuant to paragraph 3 of subsection B of § 33.1-23.1 shall be apportioned among the several counties in the secondary system by the Commonwealth Transportation Board so that each such county shall be allocated a share of such funds equal to the 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.

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.

*C. In counties having elected to manage the construction program for the secondary system of state highways within the county, in accordance with § 33.1-84.1, payment of funds from the allocation of secondary construction funds for the county may be made in equal amounts, one in each quarter of the fiscal year, and shall be reduced by the amount of federal-aid construction funds credited to each county, which will be reimbursed as qualifying expenditures occur and by the amount of funds forecast by the Department of Transportation and by the Department of Rail and Public Transportation to be expended for any construction project or projects or county-wide activities on behalf of the county or other financial obligations. Those counties that decide to take over the responsibility for the secondary construction program shall notify the Commonwealth Transportation Board by July 1 for implementation the following year. Implementation shall take place as specified in the agreement referenced in § 33.1-84.1.*

*D. The chief administrative officer of counties receiving funds under subsection C of this section shall make annual reports of expenditures to the Department of Transportation in such form as the Commonwealth Transportation Board shall prescribe, accounting for all construction expenditures made from quarterly payments. Such reports shall be included in the scope of the annual audit of each county conducted by independent certified public accountants.*