

079419424

## HOUSE BILL NO. 2854

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation  
on January 30, 2007)

(Patron Prior to Substitute—Delegate Moran)

A BILL to amend and reenact § 33.1-12 of the Code of Virginia, relating to powers and duties of the Commonwealth Transportation Board.

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

**1. That § 33.1-12 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-12. General powers and duties of Board, etc.; definitions.

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

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

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

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

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commonwealth Transportation Commissioner or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the 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, bridges, and interchanges. To give suitable names to state highways, bridges, and interchanges and change the names of any highways, bridges, or interchanges forming a part of the

HOUSE SUBSTITUTE

HB2854H1

60 systems of state highways, except such highways, bridges, or interchanges as have been or may hereafter  
61 be named by the General Assembly; provided that the name of living persons shall not be used for such  
62 purposes. The Department of Transportation shall place and maintain appropriate signs indicating the  
63 names of highways, bridges, and interchanges named by the Board or by the General Assembly. The  
64 costs of producing, placing, and maintaining these signs shall be paid by the counties, cities, and towns  
65 in which they are located. No name shall be given to any state highway, bridge or interchange by the  
66 Commonwealth Transportation Board unless and until the Commonwealth Transportation Board shall  
67 have received from the local governing body of the locality within which a portion of the facility to be  
68 named is located a resolution of that governing body requesting such naming.

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

73 (6) Information and statistics. To gather and tabulate information and statistics relating to  
74 transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner  
75 shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board,  
76 and the public concerning the current status of all highway construction projects in the Commonwealth.  
77 This report shall be posted at least four times each fiscal year, but may be updated more often as  
78 circumstances allow. The report shall contain, at a minimum, the following information for every project  
79 in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds  
80 expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of,  
81 on, or behind schedule; ~~and~~ (vi) the name of the prime contractor; (vii) *total expenditures of federal*  
82 *transportation funds in each county and city; (viii) total expenditures of state transportation funds in*  
83 *each county and city; (ix) statewide totals for federal, state, and local funds expended for highways; (x)*  
84 *statewide totals for federal, state, and local funds expended for transit; (xi) total funds expended on*  
85 *intercity passenger and freight rail line and trains; and (xii) total funds expended in each federal and*  
86 *state programmatic category.* Use of one or more Internet websites may be used to satisfy this  
87 requirement. Project specific information posted on the Internet shall be updated daily as information is  
88 available.

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

94 (8) Cooperation with other agencies and local governments.

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

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

102 (9) Transportation.

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

107 (b) To coordinate the planning for financing of transportation needs, including needs for highways,  
108 railways, seaports, airports, and public transportation and to set aside funds as provided in  
109 § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall  
110 adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year.  
111 This program shall be based on the most recent official Transportation Trust Fund revenue forecast and  
112 shall be consistent with a debt management policy adopted by the Board in consultation with the Debt  
113 Capacity Advisory Committee and the Department of the Treasury.

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

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

120 (10) Contracts with other states. To enter into all contracts with other states necessary for the proper  
121 coordination of the location, construction, maintenance, improvement, and operation of transportation

122 systems, including the systems of state highways with the highways of such other states and, where  
123 necessary, to seek the approval of such contracts by the Congress of the United States.

124 (11) Use of funds. To administer, distribute, and allocate funds in the Transportation Trust Fund as  
125 provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to  
126 any highway construction project are equal to total expenditures within 12 months following completion  
127 of the project. However, this requirement shall not apply to debt service apportionments pursuant to  
128 § 33.1-23.3 or 33.1-23.4.

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

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

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

139 (15) Outdoor theaters. By regulation:

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

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

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

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

150 (16) Establishment of highway user fees for the systems of state highways. When the traffic-carrying  
151 capacity of any system of state highways or a portion thereof is increased by construction or  
152 improvement, the Commonwealth Transportation Board may enter into agreements with localities,  
153 authorities, and transportation districts to establish highway user fees for such system of state highways  
154 or portion thereof that the localities, authorities, and transportation districts maintain.