

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 195

An Act to amend and reenact § 33.1-70.1 of the Code of Virginia, relating to the rural rustic road program.

[H 1406]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-70.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-70.1. Requesting Department to hard-surface secondary roads; paving of certain secondary 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 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 in which the road is located has requested paving of such road as part of the six-year plan for the county 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. Notwithstanding the provisions of subsections A and B, the governing body of any county, 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 ~~4,000~~ 1,500 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. 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.