

2008 SPECIAL SESSION II

INTRODUCED

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HOUSE BILL NO. 6001

Offered June 23, 2008

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A BILL to amend and reenact §§ 33.1-23.2, 33.1-23.3, and 33.1-23.4 of the Code of Virginia, relating to allocation of primary, urban, and secondary system highway construction funds.

Patron—Cole

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.2, 33.1-23.3, and 33.1-23.4 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-23.2. Allocation of construction funds for primary system and interstate match.

A. The Commonwealth Transportation Board shall allocate such funds as are available under *subdivision B 1 of § 33.1-23.1 B 4* to the primary 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~~ *the number of vehicles registered.*

B. Out of each district's total allocation of primary funds pursuant to ~~paragraph 4 of subsection subdivision B 1 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 ~~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. Notwithstanding subsection A, the Board may, from funds available under subdivision B 1 of § 33.1-23.1, provide funding for the construction of highway projects maintained or to be maintained by a municipality, provided such project involves a component of the National Highway System and such funds are derived from allocations to the highway construction district in which such project is located. Any allocation under this subsection shall not diminish funds allocated or allocable to any such municipality under § 33.1-23.3.

E. Such funds allocated to the primary 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. Allocation of construction funds for urban system highways.

A. Such funds as are allocated to urban highways in (i) all towns that have more than 3,500 inhabitants according to the last preceding United States Census, (ii) all towns which, according to evidence satisfactory to the Commonwealth Transportation Board, have attained a population of more than 3,500 since the last preceding United States census, (iii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect, (iv) all cities regardless of their populations, and (v) the Towns of Wise, Lebanon, and Altavista pursuant to subdivision B 2 of ~~subsection B of § 33.1-23.1~~ shall be apportioned among the cities and towns of this Commonwealth by the Commonwealth Transportation Board in such a manner that each city or town to which these funds are allocable receives the same proportion of total funds available as the ~~population number of vehicles registered~~ that city or town bears to the total ~~population of number of vehicle registered in~~ all cities and towns among which such funds are allocable. ~~For the purposes of this section, the term "population"~~

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59 means either the population according to the latest United States census or the latest population estimate
60 of the Center for Public Service, whichever is more recent. Whenever any city or town qualifies under
61 this section for allocation of funds, such qualification shall continue to apply to such city or town
62 notwithstanding any subsequent changes in population and shall cease to apply only upon the subsequent
63 enactment by the General Assembly of a measure in which the intent is clearly stated. All allocations
64 made prior to July 1, 2001, to cities and towns meeting the criteria above are hereby ratified, validated,
65 and confirmed.

66 B. No apportionment hereunder shall be made to any city or town which does not have an urban
67 project or projects approved by the Commonwealth Transportation Board and in no case shall the
68 apportionment to any city or town exceed the total estimated cost of the project or projects for which
69 funds are allocated. Such funds shall, as far as possible, be allotted prior to the commencement of the
70 fiscal year and public announcement made of such allotment. Any apportionment due but not received
71 by any city or town in a fiscal year for use under this section shall accrue as a credit to such city or
72 town and be held for its construction projects for five succeeding fiscal years. Funds accrued shall be
73 apportioned prior to any other distribution under this section in the fiscal year requested by the city or
74 town.

75 A portion of allocations made to any city or town under this section may be used on streets
76 functionally classified as arterial for (i) the purchase of residue parcels or land resulting from highway
77 construction or reconstruction projects where the purchase will result in necessary access control or land
78 use control directly related to the purpose and need for the project, (ii) improvements to traffic safety,
79 (iii) improvement to traffic flow and transportation system use, or any combination of (i), (ii), and (iii).
80 Notwithstanding other provisions of this section, not more than one-third of the annual urban system
81 highway funds apportioned to a city or town under this section may be used to reimburse the locality
82 for debt service for bonds or eligible project costs incurred on approved projects included in the
83 Six-Year Improvement Program of the Commonwealth Transportation Board and the city's or town's
84 capital improvement program. Such funds may also be used by the locality for debt service for bonds
85 issued for, or eligible project costs incurred or to be incurred on, approved projects included, at the time
86 such bonds are issued or such costs are incurred or are to be incurred, in the Six-Year Improvement
87 Program of the Commonwealth Transportation Board and the city's or town's capital improvement
88 program. Any such funds so apportioned to and received by such city or town, or any portion thereof,
89 may be deposited in a special fund that shall be established separate and apart from any other funds,
90 general or special.

91 When the city or town presents a resolution requesting that a portion of its annual urban system
92 apportionment be set aside for reimbursement for, or payment of, debt service under this section for a
93 specific eligible project, the Commonwealth Transportation Board shall, subject to appropriation and
94 allocation, set aside no more than one-third of the anticipated annual apportionment of urban system
95 funding to the city or town for such purpose, provided such funds have not been previously committed
96 by the Board for projects contained in the Six-Year Improvement Program.

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

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

102 C. The governing body of any city or town may, with the consent of the Commonwealth
103 Transportation Board, expend urban system highway construction funds allocated annually to the city or
104 town by the Commonwealth Transportation Board for the design, land acquisition, and construction of
105 transportation projects that have been included in the Commonwealth Transportation Board's Six-Year
106 Improvement Program and for the resurfacing, restoration, rehabilitation, reconstruction, and
107 improvement of streets within the city or town for which the city receives maintenance payments under
108 § 33.1-41.1.

109 D. At the election of each city or town, payment of the funds may be made in equal amounts, one in
110 each quarter of the fiscal year, and shall be reduced, in the case of each city and town, by the amount
111 of federal-aid construction funds credited to each city or town and the amount of funds forecasted to be
112 expended by the Department of Transportation or the Department of Rail and Public Transportation for
113 any project or projects on behalf of the city or town. Those cities or towns who decide to take over the
114 responsibility for their construction program shall notify the Commonwealth Transportation Board by
115 July 1 for implementation the following year.

116 § 33.1-23.4. Allocation of construction funds within secondary system.

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

121 a whole in terms of area and population with population being weighted 80 percent, and area being
122 weighted 20 percent. For the purpose of this section, "area" means the total land area of a county
123 reduced by the area of any military reservations and state or national parks or forests within its
124 boundaries and such other similar areas and facilities of five square miles in area or more, as may be
125 determined by the Commonwealth Transportation Board *the number of registered vehicles*.

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

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

132 Before allocating funds under the foregoing provisions of this section, the Board may provide for
133 exceptionally heavy expenditures for repairs or replacements made necessary by highway damage
134 resulting from accidents, severe weather conditions, acts of God or vandalism.

135 B. Notwithstanding other provisions of this section, not more than one-third of the annual secondary
136 system highway funds apportioned to a county under this section may be used to reimburse the county
137 for (i) debt service for bonds or (ii) eligible project costs incurred on approved projects included in the
138 county's Secondary Six-Year Plan and the county's capital improvement program. Such funds may also
139 be used by the county for debt service for bonds issued for, or eligible project costs incurred or to be
140 incurred on, approved projects included, at the time such bonds are issued or such costs are incurred or
141 are to be incurred, in the Six-Year Improvement Program of the Commonwealth Transportation Board
142 and the county's capital improvement program. Any such funds so apportioned to and received by such
143 county, or any portion thereof, may be deposited in a special fund that shall be established separate and
144 apart from any other funds, general or special.

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

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

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

156 C. In counties having elected to manage the construction program for the secondary system of state
157 highways within the county, in accordance with § 33.1-84.1, payment of funds from the allocation of
158 secondary construction funds for the county may be made in equal amounts, one in each quarter of the
159 fiscal year, and shall be reduced by the amount of federal-aid construction funds credited to each
160 county, which will be reimbursed as qualifying expenditures occur and by the amount of funds forecast
161 by the Department of Transportation and by the Department of Rail and Public Transportation to be
162 expended for any construction project or projects or county-wide activities on behalf of the county or
163 other financial obligations. Those counties that decide to take over the responsibility for the secondary
164 construction program shall notify the Commonwealth Transportation Board by July 1 for implementation
165 the following year. Implementation shall take place as specified in the agreement referenced in
166 § 33.1-84.1.

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