

# VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

## CHAPTER 693

*An Act to amend and reenact § 33.1-23.3 of the Code of Virginia, relating to allocation of funds for urban highway system construction.*

[S 1438]

Approved March 30, 2009

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

**1. That § 33.1-23.3 of the Code of Virginia is amended and reenacted as follows:**

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

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

A portion of allocations made to any city or town under this section may be used on streets functionally classified as arterial for (i) the purchase of residue parcels or land resulting from highway construction or reconstruction projects where the purchase will result in necessary access control or land use control directly related to the purpose and need for the project, (ii) improvements to traffic safety, (iii) improvement to traffic flow and transportation system use, or any combination of (i), (ii), and (iii). Notwithstanding other provisions of this section, not more than ~~one-third~~ *two-thirds* of the annual urban system highway funds apportioned to a city or town under this section may be used to reimburse the locality for debt service for bonds or eligible project costs incurred on approved projects included in the Six-Year Improvement Program of the Commonwealth Transportation Board and the city's or town's capital improvement program. Such funds may also be used by the locality 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 city's or town's capital improvement program. Any such funds so apportioned to and received by such city or town, 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 the city or town presents a resolution requesting that a portion of its annual urban system apportionment 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~~ *two-thirds* of the anticipated annual apportionment of urban system funding to the city or town for such purpose, provided such funds have not been previously committed by the Board for projects contained in the Six-Year Improvement Program.

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

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