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HOUSE BILL NO. 1642

Offered January 14, 2009

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A BILL to amend and reenact § 33.1-12 of the Code of Virginia, relating to naming of highways, bridges, and interchanges by the Commonwealth Transportation Board.

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Referred to Committee on Transportation

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 administer projects and to allow those 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; (iv) a detailed cash-flow analysis for each year of the proposed project; and (v) efforts to be made to ensure maximum involvement of private enterprise and private capital.

(d) The Commonwealth Transportation Board may award contracts for the provision of equipment,

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59 materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any
60 such contract may provide that the price to be paid for the provision of equipment, materials, and
61 supplies to be furnished in connection with the projects shall not be increased but shall remain fixed
62 until completion of the projects specified in the contracts. Material components of any such contract for
63 annual and multi-year programs, including but not limited to maintenance, may be fixed at the outset of
64 the projects and until completion based on best achievable prices.

65 (3) Traffic regulations. To make rules and regulations, from time to time, not in conflict with the
66 laws of the Commonwealth, for the protection of and covering traffic on and the use of systems of state
67 highways and to add to, amend or repeal the same.

68 (4) Naming highways, bridges, and interchanges. To give suitable names to state highways, bridges,
69 and interchanges and change the names of any highways, bridges, or interchanges forming a part of the
70 systems of state highways, except such highways, bridges, or interchanges as have been or may hereafter
71 be named by the General Assembly; ~~provided that the~~. *The name of a living persons person shall not be*
72 *used for such purposes, except that a highway, bridge, or interchange may be named for a living*
73 *person, a group, or a business entity if the cost of constructing the highway, bridge, or interchange is*
74 *paid by such person, group, or business entity.* The Department of Transportation shall place and
75 maintain appropriate signs indicating the names of highways, bridges, and interchanges named by the
76 Board or by the General Assembly. The costs of producing, placing, and maintaining these signs shall
77 be paid by the counties, cities, and towns in which they are located. No name shall be given to any state
78 highway, bridge or interchange by the Commonwealth Transportation Board unless and until the
79 Commonwealth Transportation Board shall have received from the local governing body of the locality
80 within which a portion of the facility to be named is located a resolution of that governing body
81 requesting such naming.

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

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

102 (7) Policies and operation of Departments. To review and approve policies and transportation
103 objectives of the Department of Transportation and the Department of Rail and Public Transportation, to
104 assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon
105 to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and
106 Public Transportation, respectively.

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

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

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

115 (9) Transportation.

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

120 (b) To coordinate the planning for financing of transportation needs, including needs for highways,

121 railways, seaports, airports, and public transportation and to set aside funds as provided in
 122 § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall
 123 adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year.
 124 This program shall be based on the most recent official Transportation Trust Fund revenue forecast and
 125 shall be consistent with a debt management policy adopted by the Board in consultation with the Debt
 126 Capacity Advisory Committee and the Department of the Treasury.

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

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

133 (e) To promote increasing private investment in Virginia's transportation infrastructure, including but
 134 not limited to acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

135 (10) Contracts with other states. To enter into all contracts with other states necessary for the proper
 136 coordination of the location, construction, maintenance, improvement, and operation of transportation
 137 systems, including the systems of state highways with the highways of such other states and, where
 138 necessary, to seek the approval of such contracts by the Congress of the United States.

139 (11) Use of funds. To administer, distribute, and allocate funds in the Transportation Trust Fund as
 140 provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to
 141 any highway construction project are equal to total expenditures within 12 months following completion
 142 of the project. However, this requirement shall not apply to debt service apportionments pursuant to
 143 § 33.1-23.3 or 33.1-23.4.

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

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

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

154 (15) Outdoor theaters. By regulation:

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

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

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

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

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