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SENATE BILL NO. 1464

Offered January 20, 2009

A BILL to amend and reenact §§ 2.2-200, 2.2-204, 2.2-211, 2.2-306, 2.2-2423, 5.1-1, 5.1-2.1, 5.1-7, 5.1-9.9, 5.1-30.9, 5.1-39, 10.1-1425.8, 15.2-968.1, 15.2-2030, 15.2-2222.1, 15.2-2272, 15.2-3530, 15.2-3534, 15.2-4832, 15.2-5114, 15.2-5146, 22.1-129, 25.1-108, 25.1-109, 25.1-209, 25.1-229, 33.1-1, 33.1-2, 33.1-3, 33.1-221.1:1.1, 33.1-221.1:8, 33.1-351, 33.1-391.2, 33.1-391.3:1, 33.1-391.5, 46.2-200, 46.2-206, 46.2-223, 46.2-224, 46.2-302, 46.2-373, 46.2-675, 46.2-819.1, 46.2-873.1, 46.2-877, 46.2-878, 46.2-881, 46.2-883, 46.2-930, 46.2-932, 46.2-1104, 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1144.1, 46.2-1145, 46.2-1223, 46.2-1307, 46.2-1307.1, 53.1-58, 55-201.1, 56-27, 56-28, 56-29, 56-32, 56-366.1, 56-366.3, 56-369, 56-405, 56-405.1, 56-405.2, 56-406.1, 56-406.2, 56-458.1, 56-573.1, and 63.2-611 of the Code of Virginia, to amend the Code of Virginia by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:21, and to repeal Article 10 (§§ 2.2-228 and 2.2-229) of Chapter 2 of Title 2.2 of the Code of Virginia and § 5.1-2.3 of the Code of Virginia, relating to the offices of Secretary of Transportation, Chief Executive Officer for Transportation, Commonwealth Transportation Commissioner, Director of the Department of Aviation, and Director of the Department of Rail and Public Transportation.

Patron—McDougle

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-200, 2.2-204, 2.2-211, 2.2-306, 2.2-2423, 5.1-1, 5.1-2.1, 5.1-7, 5.1-9.9, 5.1-30.9, 5.1-39, 10.1-1425.8, 15.2-968.1, 15.2-2030, 15.2-2222.1, 15.2-2272, 15.2-3530, 15.2-3534, 15.2-4832, 15.2-5114, 15.2-5146, 22.1-129, 25.1-108, 25.1-109, 25.1-209, 25.1-229, 33.1-1, 33.1-2, 33.1-3, 33.1-221.1:1.1, 33.1-221.1:8, 33.1-351, 33.1-391.2, 33.1-391.3:1, 33.1-391.5, 46.2-200, 46.2-206, 46.2-223, 46.2-224, 46.2-302, 46.2-373, 46.2-675, 46.2-819.1, 46.2-873.1, 46.2-877, 46.2-878, 46.2-881, 46.2-883, 46.2-930, 46.2-932, 46.2-1104, 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1144.1, 46.2-1145, 46.2-1223, 46.2-1307, 46.2-1307.1, 53.1-58, 55-201.1, 56-27, 56-28, 56-29, 56-32, 56-366.1, 56-366.3, 56-369, 56-405, 56-405.1, 56.405.2, 56-406.1, 56-406.2, 56-458.1, 56-573.1, and 63.2-611 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:21 as follows:

§ 2.2-200. Appointment of Governor's Secretaries; general powers; severance.

A. The Governor's Secretaries shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Each Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, each Secretary shall take an oath to faithfully execute the duties of the office.

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;

2. Provide such assistance to the Governor or the Secretary as may be required; and

3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;

2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

6. Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by law or executive order.

D. Severance benefits provided to any departing Secretary shall be publicly announced by the Governor prior to such departure.

E. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education, the Secretary of Finance, the Secretary of Health and Human Resources, the Secretary of Natural Resources, the Secretary of Public Safety, *and* the Secretary of Technology~~, and the Secretary of Transportation~~.

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance, Virginia Economic Development Partnership Authority, *Virginia Motor Vehicle Dealer Board, Virginia Port Authority,* Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing Commission, Tobacco Indemnification and Community Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-211. Position established; agencies for which responsible; additional powers.

A. The position of Secretary of Finance (the "Secretary") is created. The Secretary shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, *Department of Motor Vehicles,* Department of the Treasury and Department of the State Internal Auditor. The Governor, by executive order, may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due and owing by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and authorities.

§ 2.2-306. Secure Commonwealth Panel; membership; duties; compensation; staff.

A. The Secure Commonwealth Panel (the Panel), is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of 34 members as follows: three members of the House of Delegates and two nonlegislative citizens to be appointed by the Speaker of the House of Delegates; three members of the Senate of Virginia and two nonlegislative citizens to be appointed by the Senate Committee on Rules; the Lieutenant Governor; the Attorney General; the Executive Secretary of the Supreme Court of Virginia; the Assistant to the Governor for Commonwealth Preparedness, the Secretary of Commerce and Trade, the Secretary of Health and Human Resources, the Secretary of Public Safety, the Secretary of Technology and the ~~Secretary of Transportation~~ *Chief Executive Officer for Transportation* or their designees; two local first responders; three local government representatives; two physicians with knowledge of public health; four members from the business or industry sector; and four additional members from the private sector. Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on Rules, all other appointments shall be made by the Governor. Additional ex officio members may be appointed to the Panel by the Governor at his discretion. Legislative members shall serve terms coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen members shall serve for terms of four years. The Assistant to the Governor of the Office shall be the chairman of the Panel.

B. The Panel shall monitor and assess the implementation of statewide prevention, preparedness, response, and recovery initiatives and where necessary to review, evaluate, and make recommendations relating to the emergency preparedness of government at all levels in the Commonwealth. Additionally, the Panel shall facilitate cabinet-level coordination among the various agencies of state government related to emergency preparedness and shall facilitate private sector preparedness and communication. The Panel shall make quarterly reports to the Governor concerning the state's emergency preparedness, response, recovery, and prevention efforts.

C. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

D. Staff support for the Panel and funding for the costs of expenses of the members shall be provided by the Office of Commonwealth Preparedness.

§ 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum; compensation and expenses.

A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall advise the Geographic Information Network Division (the Division) of the Virginia Information Technologies Agency on issues related to the exercise of the Division's powers and duties.

B. The Board shall consist of 18 members appointed as follows: nine nonlegislative citizen members to be appointed by the Governor that consist of one agency director from one of the natural resources agencies, one official from a state university, one elected official representing a local government in the Commonwealth, one member of the Virginia Association of Surveyors, one elected official who serves on a planning district commission, two representatives of utilities or transportation industries utilizing geographic data, and two representatives of private businesses with expertise and experience in the establishment, operation, and maintenance of geographic information systems; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; the Chief Information Officer, the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~, and the Executive Director of the Economic Development Partnership Authority or their designees who shall serve as ex officio, voting members. Gubernatorial appointees may be nonresidents of the Commonwealth. All members of the Board appointed by the Governor shall be confirmed by each house of the General Assembly. The agency director and state university official appointed by the Governor may each designate a member of his organization as an alternate who may attend meetings in his place and be counted as a member of the Board for the purposes of a quorum.

Any members of the Board who are representatives of private businesses that provide geographic information services, and their companies, are precluded from contracting to provide goods or services to the Division.

C. Legislative members' terms shall be coincident with their terms of office. The gubernatorial appointees to the Board shall serve five-year terms, except for the initial appointees whose terms were staggered. Members appointed by the Governor shall serve no more than two consecutive five-year terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility to serve.

D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman or the Chief Information Officer.

E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Geographic Information Network Division of the Virginia Information Technologies Agency.

F. The Geographic Information Network Division shall provide staff support to the Board.

§ 5.1-1. Definitions.

When used in this title, unless expressly stated otherwise:

"Board" means the ~~Virginia Aviation~~ *Commonwealth Transportation* Board.

"Person" means any individual, corporation, government, political subdivision of the Commonwealth, or governmental subdivision or agency, business trust, estate, trust, partnership, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air, including a balloon or other contrivance designed for maneuvering in airspace at an altitude greater than twenty-four inches above ground or water level except that any contrivance now or hereafter invented of fixed or flexible wing design, operating without the assistance of any motor, engine, or other mechanical propulsive device, which is designed to utilize the feet and legs of the operator or operators as the sole means of initiating and sustaining forward motion during the launch and of providing the point of contact with the ground upon landing, and commonly called a "hang glider" shall not be included within this definition.

"Public aircraft" means an aircraft used exclusively in the service of any state, or political subdivision thereof, or the federal government.

"Civil aircraft" means any aircraft other than a public aircraft.

"Airman" means any individual, including the person in command, and any pilot, mechanic, or

member of the crew, who engages in the navigation of aircraft while under way within Virginia airspace, and any individual who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers or accessories; and any individual who serves in the capacity of aircraft dispatcher.

"Airport" means any area of land or water which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, easements and together with all airport buildings and facilities located thereon.

"Landing area" or "landing field" means any locality, whether over land or water, including airports and intermediate landing fields, which is used or intended to be used for the landing and takeoff of aircraft, and open to the public for such use, whether or not facilities are provided for the sheltering, servicing or repair of aircraft, or for receiving or discharging passengers or cargo.

"Airspace" means all that space above the land and waters within the boundary of this Commonwealth.

"Drop zone" means any locality whether over land or water which is used, or intended for use, for the landing and recovery of sky divers, or parachutists using a parachute or other contrivance designed for sport jumping.

"Department" means the Department of Aviation.

"Commercial aircraft" means any civil aircraft used in flight activity for compensation or for hire.

"Contract carrier by aircraft" or "contract carrier" means any person, not included under § 5.1-89 (c) or (d), who, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property by aircraft for compensation and in the transportation of passengers does not charge individual fares.

"Air navigation facility" means any airport ground or air navigation facility, other than one owned and operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, buildings, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices, and any combination of any or all of such facilities, used or useful as an aid, or constituting any advantage or convenience, to the safe taking off, navigation, and landing of aircraft, in the safe and efficient operation or maintenance of an airport, in the safe, efficient and convenient handling or processing of aviation passengers, mail or cargo, or in the servicing or maintenance of aircraft or ground equipment.

"Airport hazard" shall mean any structure, object or natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

§ 5.1-2.1. Virginia Aviation Board functions transferred to Commonwealth Transportation Board.

A. The *powers, functions and responsibilities heretofore vested in the* Virginia Aviation ~~Commission~~ *Board*, a public body corporate and politic, ~~is~~ *are* hereby ~~continued within the Department of Aviation as a political subdivision of the Commonwealth and shall hereafter be known as~~ *transferred to* the ~~Virginia Aviation~~ *Commonwealth Transportation* Board*, established by § 33.1-1, and any references in this title to the "Virginia Aviation Board" or the "Board" shall be taken to refer to the Commonwealth Transportation Board*. ~~The Board shall consist of eight members, selected so far as practicable from different geographic areas of the Commonwealth, appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor. Members shall serve for four-year terms and no member shall serve for more than two full successive terms. Initial appointments to the Board shall be made as follows: one shall be for a term of one year, two shall be for terms of two years, two shall be for terms of three years, and two shall be for terms of four years each and thereafter all appointments shall be for terms of four years each. The Chairman of the Board shall be appointed by the Governor.~~

B. Whenever the Board shall acquire ownership or jurisdiction over an airport or airports previously operated by an agency of the United States, there may be a member appointed to the Board by the President of the United States. Such member shall have the powers and duties of other members of the Board only with respect to the airport or airports so acquired.

C. There may be a member of the Board from any county or city wherein the Board acquires or constructs an airport, to be elected by the governing body of the county or city and to serve at its pleasure. Such member shall have the powers and duties of other members of the Board only with respect to such airport. If the Board acquires an airport which was constructed by one political subdivision but is located in another, the political subdivision which constructed the airport, rather than the political subdivision in which it is located, shall be represented on the Board.

§ 5.1-7. Licensing of airports and landing areas.

Except as provided in § 5.1-7.2, every person, before operating an airport or landing area or adding or extending a runway, shall first secure from the Department a license. The application therefor shall be made on the form prescribed and furnished by the Department and shall be accompanied by a fee not

exceeding $100.

Such license shall be issued for a period not to exceed seven years, and shall be renewed every seven years. Before issuing such license, the Department shall require the holder of such license to furnish proof of financial responsibility prescribed in Chapter 8.2 (§ 5.1-88.7 et seq.) of this title.

It shall be unlawful for any person to operate any airport or landing area which is open to the general public for the landing or departure of any aircraft until a license therefor shall be issued by the Department.

Before issuing such license for the establishment of a new airport, the Department shall investigate the location of such airport or landing area with the relation to its proximity to and its runway orientation in relation to any other airport or landing area and shall provide for the safety of civil aircraft alighting thereon or departing therefrom. If the proposed airport or landing area shall be so situated as to endanger aircraft using the same or any other airport or landing area in close proximity, and if proper provisions have not been made in all other respects for the safety of aircraft alighting thereon or departing therefrom, the license shall not be granted. To be licensed, an airport required to be licensed under § 5.1-7.2 must meet this criterion and any applicable requirement provided for in regulation promulgated under this section, but no others.

The Board may, by regulation, adopt any other requirements for licensure that are related to the safety of civil aircraft using such airport or landing area. Any airport having a license issued prior to October 1, 1995, and not meeting one or more minimum standards as defined in Part III of the Virginia Aviation Regulations (VR 165-01-02:1), shall be exempt from having to comply with those noncomplying standards for as long as the airport remains an active public-use facility. Should such airport cease to be open to the public for one year, and subsequently reopen, it shall be required to comply with all applicable minimum standards for licensure.

In addition to the above safety requirements, before a license is initially issued, the Department shall consider the reviews and comments of appropriate state agencies coordinated by the Department of Environmental Quality, and shall cause a public hearing to be held concerning the economic, social and environmental effects of the location or runway orientation of the airport or landing area if the facility is listed in the Virginia Air Transportation System Plan; however, such coordinated review by the Department of Environmental Quality shall not exceed ninety days after the Department has requested review by the Department of Environmental Quality. The public hearing required by this section shall be conducted by the Department of Environmental Quality in the jurisdiction in which the airport or landing area is located, after publication of notice of the hearing in a newspaper of general circulation in such jurisdiction at least ten days in advance of such hearing.

Any license issued shall describe the number of runways, the length and orientation of each runway and/or, if appropriate, the landing area.

If a runway is to be extended or new runways are to be added, a revised license shall be applied for from the Department. If the airport or landing area is listed in the Virginia Air Transportation System Plan, the Department shall consider the reviews and comments of appropriate state agencies, coordinated by the Department of Environmental Quality, and shall cause a public hearing to be held concerning the economic, social and environmental effects of such changes to the license.

Whenever a public hearing is called for herein, if there has been a public hearing associated with the development of any environmental documents to comply with the receipt of federal funds, the Department and the Department of Environmental Quality may rely on such document or hearing in carrying out their respective duties set out in this section.

If an airport or landing area cannot meet the requirements for licensure that have been adopted by the ~~Virginia Aviation~~ Board, or having met those requirements cannot maintain compliance, the Department may issue conditional licenses to allow time for the airport or landing areas to take steps to meet those requirements or may revoke any license issued, if requirements for licensure are not met or cannot be met.

Any party aggrieved by the granting or refusal to grant any such license shall have a right of appeal to the circuit court of the jurisdiction where the airport or landing area is to be located, which appeal shall be filed in accordance with the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2.

All airports or landing areas that hold licenses or permits shall be issued new licenses, without charge, on or before October 1, 1995, describing the number, length and orientation of the runway or runways or, if appropriate, the landing area, which shall be valid for up to seven years. The length of the new license term may be staggered so that all licenses will not become renewable at the same time. If any airport landing area does not meet the current requirements for licensure, a new license may be issued.

§ 5.1-9.9. Same; duration of permits; suspension or revocation; penalty.

A. Contract carrier permits issued pursuant to this chapter shall be effective from the date of issuance

and shall remain in effect only so long as the contract carrier's insurance, underwritten bond or certificate of insurance required by § 5.1-9.5 remains in full force and effect.

B. The Department may suspend or revoke such permit for violation of any of the aviation laws of this Commonwealth or of the United States of America, or for violation of any of the rules and regulations of the ~~Virginia Aviation~~ Board.

C. Willful misrepresentation of any material fact in obtaining a contract carrier permit shall be a Class 1 misdemeanor and punishable as such.

§ 5.1-30.9. Report to the General Assembly and Chief Executive Officer for Transportation.

The Board, in conjunction with the Authority, shall report annually on or before December 1 to the General Assembly and the ~~Governor~~ *Chief Executive Officer for Transportation* on all loans made from the Fund.

§ 5.1-39. Use, disposal and termination of rights acquired.

No easements, rights or privileges acquired under the terms of this article by any county, city or town shall be employed or disposed of except to accomplish the purposes for which they were originally acquired; except that when such easements, rights, or privileges have been transferred to the ~~Virginia Aviation~~ Board, they may be held, used, and disposed of in accordance with §§ 5.1-2.2 and 5.1-2.2:1. Upon the abandonment of any airport or landing field acquired pursuant to this article all easements, rights and privileges which shall have been so acquired over or with respect to adjacent lands shall thereupon terminate and revert back to the person from whom the easement, right or privilege was obtained or his successor in interest.

§ 10.1-1425.8. Department of Transportation; authority and duty.

The Department of Transportation is authorized to conduct recycling research projects, including the establishment of demonstration projects which use recycled products in highway construction and maintenance. Such projects may include by way of example and not by limitation the use of ground rubber from used tires or glass for road surfacing, resurfacing and sub-base materials, as well as the use of plastic or mixed plastic materials for ground or guard rail posts, right-of-way fence posts and sign supports.

The Department of Transportation shall periodically review and revise its bid procedures and specifications to encourage the use of products and materials with recycled content in its construction and maintenance programs.

The ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ may continue to provide for the collection of used motor oil and motor vehicle antifreeze from the general public at maintenance facilities in the County of Bath. The ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ may designate the source of funding for the collection and disposal of these materials.

§ 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

A. The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than one intersection for every 10,000 residents within each county, city, or town at any one time, provided, however, that within planning District 8, each such locality may install and operate traffic light signal photo-monitoring systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by

regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed $50, nor shall it include court costs.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least 60 business days from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system in connection with the violation.

H. Information collected by a traffic light signal violation monitoring system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. On behalf of a locality, a private entity may not obtain records regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If a locality does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days. Any locality operating a traffic light signal violation monitoring system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of $1,000.

I. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by a locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for compensation based on the number of violations or monetary penalties imposed.

J. When selecting potential intersections for a traffic light signal violation monitoring system, a locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light

violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall submit a list of intersections to the Virginia Department of Transportation for final approval.

K. Before the implementation of a traffic light signal violation monitoring system at an intersection, the locality shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based on the recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

N. Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system, a locality shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic light signal violation monitoring system.

§ 15.2-2030. Localities may sell or lease airspace over public streets, public rights-of-way, etc., under certain conditions.

Notwithstanding the provisions of § 15.2-2000 A, subject to the provisions of Article VII, Section 9 of the Constitution of Virginia when applicable, any locality may by ordinance authorize the sale or lease of the airspace over or under any public street, lane, alley or other public right-of-way in such locality owned by it in fee simple; provided, that any building, structure or appurtenance thereto, constructed over any such street, lane, alley or other public right-of-way shall have a minimum clearance of sixteen feet six inches and providing further that nothing herein shall be construed to relieve any such grantee or lessee of such airspace of the liability for negligence on their part. No such ordinance shall be adopted until the governing body has held a public hearing thereon after public notice as provided in § 15.2-2204. In addition, in those public rights-of-way in which the Commonwealth has a prescriptive easement for maintenance and public travel, the airspace shall be conveyed or leased only with the consent, in writing, of the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~.

Should the construction of any building or structure in any such airspace require the relocation of any utility, the cost of such relocation shall be borne by the grantee or lessee.

§ 15.2-2222.1. Coordination of state and local transportation planning.

A. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223, any part of a comprehensive plan pursuant to § 15.2-2228, or any amendment to any comprehensive plan as described in § 15.2-2229, the locality shall submit such plan or amendment to the Department of Transportation for review and comment if the plan or amendment will substantially affect transportation on state controlled highways as defined by regulations promulgated by the Department. The Department's comments on the proposed plan or amendment shall relate to plans and capacities for construction of transportation facilities affected by the proposal. Within 30 days of receipt of such proposed plan or amendment, the Department may request, and the locality shall agree to, a meeting between the Department and the local planning commission or other agent to discuss the plan or amendment, which discussions shall continue as long as the participants may deem them useful. The Department shall make written comments within 90 days after receipt of the plan or amendment, or by such later deadline as may be agreed to by the parties in the discussions.

B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of Transportation within 10 business days of receipt thereof if the proposal will substantially affect transportation on state-controlled highways. Such application shall include a traffic impact statement if required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days of its receipt of such traffic impact statement, the Department shall either (i) provide written comment on the proposed rezoning to the locality, or (ii) schedule a meeting, to be held within 60 days of its receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and guidelines of the Department, engineering and design considerations, any adopted regional or statewide

plans and short and long term traffic impacts on and off site. The Department shall complete its initial review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives the rezoning proposal from the locality.

C. When a locality receives a subdivision plat pursuant to § 15.2-2258 or 15.2-2260, or a site plan or plan of development pursuant to subdivision A 8 of § 15.2-2286, the locality shall submit such plat or plan to the Department of Transportation in accordance with § 15.2-2260 within 10 business days if the plat or plan substantially affects transportation on state-controlled highways as defined by regulations promulgated by the Department. Such plat or plan shall include supplemental traffic analysis if required by local ordinance or resolution or pursuant to regulations promulgated by the Department. Within 30 days of its receipt of such plat or plan, the Department shall either (i) provide written comment on the plat or plan, or (ii) schedule a meeting, to be held within 60 days of the Department's receipt of the plat or plan, with members of the local planning commission or other agent of the locality to discuss potential modifications to the plat or plan to address any concerns or deficiencies. The Department's comments on the plat or plan shall be based upon the comprehensive plan, regulations or guidelines of the Department, engineering and design considerations, any adopted statewide or regional plans and short and long term traffic impacts on and off site. The Department shall complete its final review within 90 days after it receives such plat or plan from the locality. The submission of the application to the Department shall toll all times for local review set out in this chapter until the locality has received the Department's final comments.

D. If a locality has not received written comments within the timeframes specified in subsections B or C, the locality may assume that the Department has no comments.

E. The review requirements set forth in this section shall be supplemental to, and shall not affect, any requirement for review by the Department of Transportation or the locality under any other provision of law. Nothing in this section shall be deemed to prohibit any additional consultations concerning land development or transportation facilities that may occur between the Department and localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

F. The Department shall impose fees and charges for the review of applications, plans and plats pursuant to paragraphs A, B, and C, and such fees and charges shall not exceed $1,000 for each review.

G. Until July 1, 2008, the Department shall not be subject to the requirements of the Administrative Process Act (§ 2.2-4000 et seq.) in promulgating regulations pursuant to this section, and the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ may phase the implementation of regulations promulgated pursuant to this section as he may deem appropriate.

§ 15.2-2272. Vacation of plat after sale of lot.

In cases where any lot has been sold, the plat or part thereof may be vacated according to either of the following methods:

1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the plat and also signed on behalf of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the governing body. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which the plat is recorded.

2. By ordinance of the governing body of the locality in which the land shown on the plat or part thereof to be vacated lies on motion of one of its members or on application of any interested person. The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

Roads within the secondary system of highways may be vacated under either of the preceding methods and the action will constitute abandonment of the road, provided the land shown on the plat or part thereof to be vacated has been the subject of a rezoning or special exception application approved

following public hearings required by § 15.2-2204 and provided the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ or his agent is notified in writing prior to the public hearing, and provided further that the vacation is necessary in order to implement a proffered condition accepted by the governing body pursuant to §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of special exception approval. All abandonments of roads within the secondary system of highways sought to be effected according to either of the preceding methods before July 1, 1994, are hereby validated, notwithstanding any defects or deficiencies in the proceeding; however, property rights which have vested subsequent to the attempted vacation are not impaired by such validation. The manner of reversion shall not be affected by this section.

§ 15.2-3530. Continuation of services of Department of Transportation after consolidation.

When a county and city consolidate into a city, or a combination of counties and a city or cities consolidate into a city, or when any county and all of the incorporated towns located entirely therein are consolidated into a city or cities, the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ shall continue the full services of the Department of Transportation in those areas which were formerly a county or counties in the same manner and to the same extent such services were rendered prior to such consolidation. Funds for the maintenance, construction and reconstruction of streets within the areas formerly a county or counties shall continue to be allocated as if such areas were still in the county or counties, and such city or cities shall not receive funds for maintenance, construction or reconstruction of streets in those areas. In those areas where the Department of Transportation provides the above services, the governing body of such city or cities, as the case may be, shall have control over the streets and highways to the same extent as was formerly vested in the governing body of the county or counties.

Notwithstanding the above, at any time subsequent to the consolidation, when in the opinion of the ~~Commissioner~~*Chief Executive Officer for Transportation*~~,~~ the consolidated area ~~which~~*that* was formerly a county or counties or any portion thereof becomes substantially urbanized, the ~~Commissioner~~ *Chief Executive Officer for Transportation* may by agreement with the governing body of the city, transfer the streets in any area deemed urbanized to the city for construction, reconstruction and maintenance, and thereafter funds for such streets shall be allocated as otherwise provided by law for city streets.

§ 15.2-3534. Optional provisions of consolidation agreement.

Any such consolidation agreement may contain any of the following provisions:

1. In any territory that will be a part of the consolidated city there shall be no increase in assessments, except for permanent improvements made after the consolidation, for a period not exceeding five years.

2. The rate of tax on real property in any such territory shall be lower than in other territory of the consolidated unit for a period of five years, provided that any difference between such rates of taxation shall bear a reasonable relationship to differences in nonrevenue-producing governmental services giving land urban character which are furnished in such territories.

3. In any area specified in such agreement, for the purpose of repaying existing indebtedness chargeable to such area prior to consolidation, there may be levied a special tax on real property for a period not exceeding twenty years, which may be different from and in addition to the general tax rate throughout the entire consolidated county or counties, city or cities, or tier-city, as the case may be.

4. Geographical subdivisions of the consolidated city, to be known as boroughs, may be established, which may be the same as the existing (i) cities, (ii) counties, or (iii) portions of such counties, which are included in the consolidated city, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section; the names of such boroughs shall be set forth in the consolidation agreement.

5. Geographical subdivisions of the consolidated county or counties, to be known as shires, may be established, which shall be the same as and bear the names of the existing counties, towns, communities, or portions of counties, which are included in the consolidated county or counties, and may be the same as the temporary special debt districts referred to in subdivision 3 of this section.

6. In the event of consolidation of such counties and cities into a single county, there may be established geographical subdivisions of such county, to be known as shires, which shall be the same as and bear the names of the existing cities and counties.

7. In the event of consolidation of such counties and cities into a single county incorporating a tier-city therein, there shall be established geographical and political subdivisions of such county, to be known as "tier-cities"; such tier-cities shall apply for and may receive a charter from the General Assembly in the same manner as may any municipality and when issued shall thereafter qualify in general law, mutatis mutandis, as a town with respect to its rights, powers and obligations, and shall have such other rights, powers and obligations as may be given it by law, general or special.

8. In the event of the establishment of such shires or boroughs, it shall be the duty of the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ and the Director of the Department of Historic Resources to have suitable monuments or markers erected indicating the limits of

such geographical subdivisions and setting forth the history of each.

9. a. In the event of establishment of a consolidated city, there shall be a new election of officers therefor whose election and qualification shall terminate the terms of office of their predecessors; provision may be made for the exclusion from such new election of such elective officers as is deemed desirable.

b. In the event of the establishment of a consolidated city, the constitutional officers of the consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective date of consolidation; the selection of each constitutional officer for the consolidated city shall be made by agreement between those persons holding such respective offices, and the other or others, as the case may be, shall become assistants or chief deputies, upon filing of a certification of such agreement in a circuit court and approval by the court; in the event no agreement is reached or no certification is filed on or before a date stated in the consolidation agreement, the circuit court shall designate one officer as principal and the other or others, as the case may be, as assistants or chief deputies; and in the event of a vacancy in the office of assistant or chief deputy thereby created during such term, the position shall be abolished. Each such officer shall continue in office, whether as the principal officer or as chief deputy or assistant, until January 1 following the next regularly scheduled election pursuant to § 24.2-217, whether or not the term to which such officer was elected may have expired prior to that date. When the effective date of the consolidation plan is the same as the end of the term of one or more existing constitutional officers for the consolidating jurisdictions, an election shall be held to elect such constitutional officers for the consolidating jurisdictions for a new term to begin on the effective date of consolidation. Such newly elected officers may or may not become the principal constitutional officers of the consolidated city under this provision.

c. In the event of the establishment of a consolidated city, the persons holding office as the superintendents of the school divisions within the consolidating jurisdictions may continue in office at no less than their salaries in effect at the effective date of consolidation, for the terms to which they were appointed; the consolidated city school board shall designate one of such persons as division superintendent and the other as associate superintendent; in the event no designation is made on or before a date stated in the consolidation agreement, the designation shall be made by the circuit court for the consolidated city; and in the event of a vacancy in the position of superintendent or associate superintendent during the term to which appointed, the remaining incumbent shall be the superintendent and the position of associate superintendent shall be abolished.

10. In the event of the establishment of a consolidated city, the tax rate on all property of the same class within the city shall be uniform. However, the council shall have power to levy a higher tax in such areas of the city which desire additional or more complete services of government than are desired in the city as a whole, and, in such case, the proceeds therefrom shall be so segregated as to enable the same to be expended in the areas in which raised; such higher tax rate shall not be levied for school, police or general government services but only for those services which prior to consolidation were not offered in the whole of all of the consolidated localities.

11. The agreement, when proposing the creation of a consolidated city, may incorporate in a proposed charter, subject to the subsequent approval of the General Assembly, any provisions of any charter heretofore granted by the General Assembly for any of the localities proposing to consolidate. It is the intention of this subsection to permit the drafting by the governing bodies, or the committees acting for and in lieu of the governing bodies under § 15.2-3531, of a charter to be adopted as a part of the consolidation agreement for the proposed consolidated city. In such charter the name of the consolidated city, if agreed upon, shall be inserted in lieu of the name of the city which may be specified in the original charters from which the provisions are taken, or if the name of the consolidated city is left to subsequent referendum, then the phrase "the consolidated city" shall be substituted. Any such charter shall be published as provided in § 15.2-3537 as a part of the consolidation agreement.

Any agreement between any localities to form a consolidated city when adopted and approved as provided herein, together with the charter, shall be the form of the consolidated city. The governing body of the consolidated city shall have the power to make amendments to the consolidation agreement not contrary to general law. No such amendments shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

12. Any agreement between any localities to form a consolidated county may likewise incorporate provisions of any charter of any such localities proposing to consolidate and also may include the provisions of any of the optional forms of county government set forth in this title. In any form of government approved by the voters hereunder, irrespective of any other provisions of law, the initial membership of the governing body shall be as set forth in such consolidation agreement. Such agreement when adopted and approved as provided herein shall be the form of the consolidated county, and the provisions of the first paragraph of subdivision 11 above shall be applicable, mutatis mutandis.

The governing body of the consolidated county shall have the power to make amendments to the consolidation agreement not contrary to general law. No such amendments, excluding membership of the governing body, shall become effective until such amendments have been approved by the General Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

13. In any consolidation by a county and all the towns therein into a consolidated county, or in any consolidation of a county and a city into a consolidated county, the area of any of such town or towns, city or cities may be designated as a special service district, and the delivery of water, sewer and similar type services may be continued. The consolidated county shall have the same powers, rights and duties with respect to the public rights-of-way, streets and alleys within such district and receive State Highway Fund allocations as did such town or towns, city or cities prior to consolidation. The roads in the area formerly located solely within the county shall continue to be maintained as they were prior to the consolidation, and this subdivision shall not be construed to authorize any allocation from highway funds not previously authorized. The boundaries of such special service district or districts may be altered from time to time by ordinance of the governing body duly adopted after public hearing.

14. Any consolidation agreement may provide for offering to the voters the option of adopting a city or county form of government as well as the option between forms of county governments.

15. The agreement between a county and the incorporated towns located entirely therein consolidated pursuant to this article may contain provisions for the establishment of special service tax districts wherein a tax may be levied on all classes of property within those shires, where, upon the effective date of the consolidation agreement, there exists, or the consolidation agreement provides for, additional or more complete governmental services than the level of services which are being provided or will, under the agreement, be provided in other shires, or in the consolidated county as a whole. Additional or more complete governmental services include, but are not limited to, water supply, sewerage, garbage removal and disposal, heat, lighting, streets, sidewalks and storm drains, fire-fighting equipment and services, and additional law-enforcement services but shall not include separate police forces, additional schools or other basic governmental services to which all citizens are entitled. Any additional revenue produced from any such tax shall be segregated into a separate fund and expended by such consolidated county solely in the shire or special service tax district wherein such additional tax is assessed. The consolidation agreement shall establish the initial boundary lines of the shires and the tax rates within each shire. Future adjustments in the boundaries of the shires or special service tax districts shall be made in accordance with § 15.2-2401, which shall apply to the consolidated county as it does to the consolidated cities described therein. The governing body of the consolidated county shall have the same power as the city council referred to in such section. Such governing body also shall have the power to tax all sources of revenue which the previous county or incorporated towns therein had prior to such consolidation.

16. In the event of consolidation of a county and a city into a single county incorporating a tier-city therein, any rights provided to counties, cities and towns in Chapters 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), and 39 (§ 15.2-3900 et seq.) may be modified or waived in whole or in part, as set forth in the consolidation agreement, provided that the modification or waiver does not conflict with the Constitution of Virginia and provided that such provision in the consolidation agreement is approved pursuant to the provisions of Chapter 34 (§ 15.2-3400 et seq.) prior to the effective date of consolidation.

17. The agreement may provide for a subsequent referendum of the voters of all or part of one or more of the consolidating localities to be held after a favorable referendum on the initial question of consolidating. This subsequent referendum shall take the sense of the voters of an area or areas of the consolidating localities, as determined in the discretion of the governing bodies of the consolidating localities, on the question of dividing that area or portion from the newly consolidated locality and consolidating that area or portion with an adjoining locality not a part of the newly consolidated locality. The terms and conditions of this division and consolidation may be included in the agreement or may be determined by the Commission on Local Government if the affected localities are unable to agree. The nonagreeing locality shall have the right to reject the recommendations of the Commission, and not accept such area or portion.

18. In the event of consolidation of counties and cities into a single city which completely surrounds another city, the agreement may provide for the subsequent unilateral consolidation of the surrounded city into the consolidated city at any time. The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the question of whether the surrounded city and the surrounding consolidated city shall consolidate.

19. In the event of consolidation of such counties and cities into a single city which completely surrounds another city, the agreement may provide for the subsequent unilateral consolidation and conversion of the surrounded city to a township within the surrounding consolidated city at any time. The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the question of whether such city shall convert to a township. The township may, in the discretion of its

council, continue to be called a city and may formally be referred to as ..... city, a Virginia township. Such township shall have no right to become an independent city, nor to annex or exercise any extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and immunities granted towns. The consolidated city's legal relationship with such township shall be governed by the same laws that govern county-town relationships, except as modified herein.

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of 17 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

Two members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

One member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Legislative members shall serve terms coincident with their terms of office. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the Authority: ~~the Director of the Virginia Department of Rail and Public~~ *the Chief Executive Officer for* Transportation, or his designee~~; the Commonwealth Transportation Commissioner, or his designee;~~, and the chief elected officer of one town in a county which the Authority embraces to be chosen by the Authority.

The Authority shall appoint the chairman and vice-chairman.

§ 15.2-5114. Powers of authority.

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions which are members of the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any stormwater control system or water or waste system or any combination of such systems within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any political subdivision shall be acquired by an authority by the exercise of the power of eminent domain without the consent of the governing body of such political subdivision. Except as otherwise provided in this section, each authority is hereby vested with the same authority to exercise the power of eminent domain as is vested in the ~~Commonwealth~~ *Chief*

Executive Officer for Transportation ~~Commissioner~~. In acquiring personal property or any interest, right, or estate therein by purchase, lease as lessee, or installment purchase contract, an authority may grant security interests in such personal property or any interest, right, or estate therein;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a stormwater control system or water or waste system;

8. Combine any stormwater control system or water or waste system as a single system for the purpose of operation and financing;

9. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. Any political subdivision that is a member of an authority may lend, advance or give money to such authority;

10. Fix, charge and collect rates, fees and charges for the use of or for the services furnished by or for the benefit from any system operated by the authority. Such rates, fees, rents and charges shall be charged to and collected from any person contracting for the services or the lessee or tenant who uses or occupies any real estate which is served by or benefits from any such system. Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions;

11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may provide for or relate to the furnishing of services and facilities of any stormwater control system or water or waste system of the authority or in connection with the services and facilities rendered by any like system owned or controlled by the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of any one or more of them. In the implementation of any such contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of water and sewage systems, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions;

12. Contract with the federal government, the Commonwealth, the District of Columbia, any adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the authority deems proper, for the construction, operation or use of any project which is located partly or wholly outside the Commonwealth;

13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in connection with the acquisition, construction or improvement, maintenance or operation of a stormwater control system or water or waste system, or streetlight system in King George County, subject, however, to such reasonable local police regulation as may be established by the governing body of any unit having jurisdiction;

14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for sewer service or sewage disposal service fees, rents or charges imposed by any such body;

15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that such pipe or conduit and the rights-of-way in which they are contained are made available on a nondiscriminatory, first-come, first-served basis to retail providers of broadband and other telecommunications services unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities; and

16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights, including any patent, trademark, or copyright, relating to the business of the authority.

§ 15.2-5146. Use of state land.

The Commonwealth hereby consents to the use of all lands above or under water and owned or controlled by it which are necessary for the construction, improvement, operation or maintenance of any stormwater control system or water or waste system; except that the use of any portion between the right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the approval of the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~.

§ 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

A. Whenever a school board determines that it has no use for some of its real property, the school board may sell such property and may retain all or a portion of the proceeds of such sale upon approval of the local governing body and after the school board has held a public hearing on such sale and retention of proceeds, or may convey the title to such real property to the county or city or town

comprising the school division or, if the school division is composed of more than one county or city, to the county or city in which the property is located. To convey the title, the school board shall adopt a resolution that such real property is surplus and shall record such resolution along with the deed to the property with the clerk of the circuit court for the county or city where such property is located. Upon the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

If a school board sells surplus real property, a capital improvement fund shall be established by such school board and the proceeds of such sale retained by the school board shall accrue to such capital improvement fund. The capital improvement fund shall only be used for new school construction, school renovation, and major school maintenance projects.

B. A school board shall have the power to exchange real and personal property, to lease real and personal property either as lessor or lessee, to grant easements on real property, to convey real property in trust to secure loans, to convey real property to adjust the boundaries of the property and to sell personal property in such manner and upon such terms as it deems proper. As lessee of real property, a school board shall have the power to expend funds for capital repairs and improvements on such property, if the lease is for a term equal to or longer than the useful life of such repairs or improvements.

C. Notwithstanding the provisions of subsections A and B, a school board shall have the power to sell career and technical education projects and associated land pursuant to § 22.1-234.

Notwithstanding the provisions of subsections A and B, a school board of the City of Virginia Beach shall have the power to sell property to the Virginia Department of Transportation or the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ when the ~~Commissioner~~ *Chief Executive Officer for Transportation* has determined that (i) such conveyance is necessary and (ii) when eminent domain has been authorized for the construction, reconstruction, alteration, maintenance, and repair of the public highways of the Commonwealth, and for all other purposes incidental thereto, including, but not limited to, the relocation of public utilities as may be required.

D. School boards may donate obsolete educational technology hardware and software that is being replaced pursuant to subdivision B 4 of § 22.1-199.1. Any such donations shall be offered to other school divisions, to students, as provided in Board of Education guidelines, and to preschool programs in the Commonwealth.

§ 25.1-108. Offer of repurchase to former owner.

A. If a condemnor has acquired a fee simple interest in property by exercise of its power of eminent domain and subsequently declares that the property is surplus, the condemnor shall offer, within 30 days following such determination, to sell such property to the former owner or his heirs or other successors or assigns of record. Upon completion of the stated public use or where the stated public use has been abandoned, the condemnor shall provide written notice, pursuant to subsection B, of such completion or abandonment to the former property owner or his heirs or other successors or assigns of record. Upon completion of the stated public use or where the stated public use has been abandoned, the former property owner or his heirs or other successors or assigns of record may make a written demand that the condemnor declare any excess property as surplus. The right to the offer of repurchase cannot be waived and any contractual provision or agreement waiving such right is void and unenforceable. The offer to sell shall be made by the condemnor at the price paid by the condemnor to the former owner plus interest at the annual rate of six percent; provided that the condemnor may increase the price by the fair market value of the condemnor's improvements, determined at the time the offer to sell is made. In no case shall the price established by the condemnor exceed the fair market value of the property at the time the offer to sell is made. If no written response is received by the condemnor from the former owner within 90 days after the offer to sell has been made, the former owner shall be deemed to have waived his right to the offer of repurchase.

B. Notice of the offer to repurchase shall be sent by certified mail to (i) the last known address of the former owner and (ii) the address of the last owner of record as it appears in the tax records of the local treasurer.

C. This section shall not apply to property acquired by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ pursuant to Title 33.1.

§ 25.1-109. Condemnation of lands for compensatory mitigation of wetlands.

When authorization is required by federal or state law for any project affecting wetlands and the authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, no condemnor shall acquire through exercise of the power of eminent domain any property to satisfy such condition unless: (i) the property sought to be acquired is located within the same locality as the project affecting wetlands, or (ii) the governing body of the locality where the property sought to be acquired consents to its acquisition for such purpose. This section shall not apply to property acquired by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ pursuant to Title 33.1.

§ 25.1-209. Notice of filing of petition.

A. Upon the filing of a petition for condemnation, the petitioner shall give the owners 21 days' notice of the filing of such petition and of its intention to apply to the court to ascertain just compensation for the property to be taken or affected as a result of the taking and use by the petitioner of the property to be so acquired.

B. The notice, along with a copy of the petition, shall be served on the owners. In such notice, the petitioner shall give notice that an answer and grounds of defense shall be filed setting forth any objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear the case and to elect to proceed with the empanelment of a jury for the determination of such just compensation.

C. The notice may also include notice of the petitioner's application for the right of entry as provided in § 25.1-223, if such application is included in the petition as authorized by § 25.1-207.

D. A copy of the notice required to be served on the owners by this section also shall be served in the same manner upon any tenant entitled to participate in the proceeding pursuant to § 25.1-234, whose lease has been duly recorded or whose tenancy is actually known to the petitioner. However, a tenant so notified may participate in the proceeding only as permitted by § 25.1-234.

E. In addition to any other notice required to be served pursuant to this section, in any proceeding instituted by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ under this title or Title 33.1, a copy of the notice of the filing of the petition also shall be served, in the same manner as such notice is served upon owners, upon any person owning structures or improvements for which an outdoor advertising permit has been issued by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ pursuant to § 33.1-360.

§ 25.1-229. Selection of jurors.

A. Except as otherwise provided in this section, the provisions of Chapter 11 (§ 8.01-336 et seq.) of Title 8.01 shall apply to the selection of condemnation juries mutatis mutandis. While preserving the random selection process set forth in § 8.01-345, the jury commissioner shall determine the freeholder status of individuals randomly selected by reference to tax rolls or other reliable data the judge of the circuit court deems appropriate.

B. All of the acting jurors and all of the names drawn for alternate jurors shall be freeholders of property within the jurisdiction. On the day set for trial, jurors who appear shall be called to be sworn on their voir dire until a disinterested and impartial panel is obtained. A juror may be stricken for cause. From the impartial panel the judge shall randomly select 13 jurors. From the panel of 13 jurors each party shall have four preemptory strikes. The court may appoint alternate jurors. Five persons from a panel of not fewer than 13 jurors shall constitute a jury in a condemnation case. If fewer than seven jurors remain before the court prior to the exercise of peremptory strikes, the trial may proceed and be heard by less than five jurors provided the parties agree. However, no trial shall proceed with fewer than three jurors.

C. The conclusion of the jurors need not be unanimous, and a majority of the jurors may act in the name of the jury.

D. In condemnation proceedings instituted by the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~, a person owning structures or improvements for which an outdoor advertising permit has been issued by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ pursuant to § 33.1-360 shall be deemed to be an "owner" for purposes of this section.

§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; vacancies.

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of ~~seventeen members: the Secretary of Transportation, the Commonwealth Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and fourteen~~*14* citizen members. ~~The citizen~~ *Except for those members elected by the General Assembly as provided in § 33.1-2,* members shall be (i) appointed by the Governor as provided in § 33.1-2, (ii) subject to confirmation by the General Assembly, and (iii) removable from office during their respective terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled by appointment by the Governor*, for those members appointed by the Governor, and by election by the Joint Committee on Rules, for those members elected by the General Assembly. All appointments or elections to fill vacancies shall be* for the unexpired term and shall be effective until ~~thirty~~*30* days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder

of the term. No person shall be eligible to serve more than two successive terms of four years~~, other than the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director of the Department of Rail and Public Transportation~~. A person heretofore or hereafter appointed *by the Governor or elected by the General Assembly* to fill a vacancy may serve two additional successive terms.

The ~~Secretary of Transportation shall serve as Chairman of the~~ Board *shall annually elect a chairman and a vice-chairman from its membership*. The ~~Secretary~~ *chairman and vice-chairman* shall have *full* voting privileges ~~only in the event of a tie. The Commonwealth Transportation Commissioner shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman. The Director of the Department of Rail and Public Transportation shall serve without a vote.~~

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" ~~shall mean~~ *or* "Commonwealth Transportation Commissioner" *shall mean Chief Executive Officer for Transportation*; and all references to "Department of Highways and Transportation" shall refer to the Department of Transportation.

§ 33.1-2. Residence requirements; statewide interest.

Of such Board, one member shall be a resident of the territory now included in the Bristol construction district, one in the Salem construction district, one in the Lynchburg construction district, one in the Staunton construction district, one in the Culpeper construction district, one in the Fredericksburg construction district, one in the Richmond construction district, one in the Hampton Roads construction district and one in the Northern Virginia construction district. *The foregoing members of the Board shall be elected by a majority vote of the members present and voting in both houses of the General Assembly.* The remaining ~~five~~ members shall be appointed from the Commonwealth at large, but at least ~~two~~*one* shall reside in *a* standard metropolitan statistical ~~areas~~*area* and be designated as *an* urban at-large ~~members~~*member*, and at least ~~two~~ *one* shall reside outside standard metropolitan statistical areas and be designated as *a* rural at-large ~~members~~*member*. The at-large members shall be appointed to represent rural and urban transportation needs and be mindful of the concerns of seaports and seaport users, airports and airport users, railways and railway users, and mass transit and mass transit users. Each member so appointed shall be mindful of the best interest of the Commonwealth at large primarily instead of those of the district from which chosen or of the transportation interest represented.

Board members elected by the General Assembly shall not be removable by the Governor, but may be removed from office only by a majority vote of the members present and voting in both houses of the General Assembly.

§ 33.1-3. Election of Chairman; Chief Executive Officer for Transportation.

~~The Chairman of the Commonwealth Transportation Board shall be the Secretary of Transportation.~~

The *Chief Executive Officer for Transportation shall serve as* Commonwealth Transportation Commissioner, hereinafter in this title sometimes called "the Commissioner," *and* shall be the chief executive officer of the Department of Transportation. The ~~Commissioner may, at the time of his appointment, be a nonresident~~ *Chief Executive Officer for Transportation shall be elected for a term of four years by a majority vote of the Commonwealth Transportation Board, shall be a resident* of Virginia, *and* shall be an experienced administrator, able to direct and guide the Department in the establishment and achievement of the Commonwealth's long-range highway and other transportation objectives ~~and shall be appointed at large~~.

The Commissioner shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by the Commonwealth Transportation Board~~, subject to the approval of the Governor~~. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation or removal of the Commissioner, the ~~Governor~~*Board* may ~~appoint~~*elect* and thereafter remove at ~~his~~ *its* pleasure an "Acting ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~" until such time as the vacancy may be filled as provided in § 33.1-1. Such "Acting ~~Commonwealth~~ *Chief Executive for* Transportation ~~Commissioner~~" shall have all powers and perform all duties of the Commissioner as provided by law, and shall receive such compensation as may be fixed by the ~~Governor~~*Board*. In the event of the temporary disability, for any reason, of the Commissioner, full effect shall be given to the provisions of § 2.2-605.

§ 33.1-221.1:1.1. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation

system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement and development of the railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the Rail Enhancement Fund which shall be considered a special fund within the Transportation Trust Fund, hereafter referred to as "the Fund."

B. The Fund shall be established on the books of the Comptroller, and shall consist of dedications pursuant to § 58.1-2425 and such funds from other sources as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Prior to recommending an allocation of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation shall consult with and obtain the advice and recommendations of the ~~Rail Advisory~~ *Commonwealth Transportation* Board established pursuant to ~~§ 33.1-391.3:1~~*§ 33.1-1*.

D. Projects undertaken pursuant to this section shall be limited to those the Commonwealth Transportation Board shall have determined will result in public benefits to the Commonwealth or to a region of the Commonwealth that are equal to or greater than the investment of funds under this section. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, or a local government source, or a combination of such sources.

§ 33.1-221.1:8. Transportation Partnership Opportunity Fund.

A. There is created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to encourage the development of transportation projects through design-build pursuant to § 33.1-12 (b), the Public-Private Transportation Act (§ 56-556 et seq.) and to provide funds to address the transportation aspects of economic development opportunities. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation as funds are awarded in accordance with this section.

B. The Fund shall be a component of the Commonwealth Transportation Fund but not a component or subcomponent of the Transportation Trust Fund or the Highway Maintenance and Operating Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursals of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.

C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to (i) an agency or political subdivision of the Commonwealth or (ii) a private entity or operator which has submitted a proposal or signed a comprehensive agreement to develop a transportation facility pursuant to § 56-556 et seq. Loans shall be approved by the Governor and made in accordance with procedures established by the Commonwealth Transportation Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Virginia Department of Transportation shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

D. Grants or revolving loans may be used for transportation capacity development on and off site; road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects including but not limited to environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, financial analysis, or anything else permitted by law. Funds may be used for any transportation project or any transportation facility. Any transportation infrastructure

completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.

E. The Commonwealth Transportation Board~~, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade,~~ shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant shall exceed $5 million and no loan shall exceed $30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria shall include provisions including, but not limited to, the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the chairmen of the House Committees on Appropriations, Finance and Transportation and the Senate Committees on Finance and Transportation which shall include, but is not limited to, the following information: the location (county, city, or town) of the project; the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used; the number of jobs created or projected to be created and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 33.1-223.2:21. Office of Intermodal Planning and Investment of the Chief Executive Officer for Transportation.

There is hereby established the Office of Intermodal Planning and Investment of the Chief Executive Officer for Transportation, consisting of a director, appointed by the Chief Executive Officer for Transportation, and such additional transportation professionals as the Chief Executive Officer for Transportation shall determine. The goals of the Office are to provide solutions that link existing systems; reduce congestion; improve safety, mobility, and accessibility; and provide for greater travel options. It shall be the duty of the director of the Office to advise the Chief Executive Officer for Transportation and the Commonwealth Transportation Board on intermodal issues, generally.

The purpose of the Office shall be:

1. To coordinate and oversee major multimodal corridor studies as directed by the Chief Executive Officer for Transportation.

2. To assist the Commonwealth Transportation Board in the Development of the Statewide Transportation Plan pursuant to § 33.1-23.03;

3. To advocate multimodal planning solutions as part of the six-year improvement program;

4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range plans;

5. To work with and review plans of regional transportation agencies and authorities to promote intermodal and multimodal solutions;

6. To assess implementation of intermodal planning, including periodic comparisons between and among statewide and regional multimodal plans;

7. To work with and coordinate actions of the agencies of the Commonwealth to assess freight movements and promote intermodal and multimodal solutions to address freight needs;

8. To assess and coordinate transportation safety needs related to passenger and freight movements by all transportation modes;

9. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of nonmotorized transportation in the six-year improvement program and other state and regional transportation plans;

10. To develop transportation performance measures and prepare an annual performance report on state and regional efforts;

11. To inventory and assess intermodal facilities of statewide importance, prioritize new facilities, and recommend facilities for consideration in the six-year improvement program; and

12. To identify and facilitate public and private partnerships to achieve the goals of state and regional plans.

§ 33.1-351. Policy; definitions.

In order to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within this Commonwealth, to attract tourists and promote the prosperity, economic well-being, and general welfare of the Commonwealth, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly declares it to be the policy of the Commonwealth that the erection and maintenance of outdoor advertising in areas adjacent to the rights-of-way of the highways within the Commonwealth shall be regulated in accordance with the terms of this article and regulations promulgated by the Commonwealth Transportation Board pursuant thereto.

The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context:

"Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign, or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or personal property, business, services, entertainment, or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by any person; the term shall also include any part of an advertisement recognizable as such.

"Advertising structure" means any rigid or semirigid material, with or without any advertisement displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed.

"Business of outdoor advertising" means the erection, use or maintenance of advertising structures or the posting or display of outdoor advertisements by any person who receives profit gained from rentals or any other compensation from any other person for the use or maintenance of such advertising structures or the posting or display of such advertisements, except reasonable compensation for materials and labor used or furnished in the actual erection of advertising structures or the actual posting of advertisements. The business of outdoor advertising shall not include the leasing or rental of advertising structures or advertisements used to advertise products, services, or entertainment sold or provided on the premises where the advertising structures or advertisement is located.

"Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided highway.

"Certification Acceptance Program" means a program which will allow any person, firm, or corporation owning five or more signs, advertisements, or outdoor advertising structures within a municipality to inspect their own signs, advertisements, or outdoor advertising structures two times during each calendar year, with inspections at least four to six months apart, and certify to the Commonwealth Transportation Commissioner that the inspections have been performed and that their outdoor advertising structures meet all applicable laws, rules, and regulations in lieu of paying an annual permit fee as required in §§ 33.1-360, 33.1-361, and 33.1-362. The Commonwealth Transportation Commissioner may, after a hearing, decertify any person, firm, or corporation that fails to perform the required inspections annually or whose sign, advertisement, or outdoor advertising structures are found in violation of any federal, state or local law, rule, or regulation and shall collect all permit fees for the year the decertification occurs and all subsequent years if the Commissioner finds that the violation has been committed.

"Distance from edge of a right-of-way" shall be the horizontal distance measured along a line normal or perpendicular to the centerline of the highway.

"Federal-aid primary highway" means any highway within that portion of the State Highway System as established and maintained under Article 2 (§ 33.1-25 et seq.) of Chapter 1 of Title 33.1, including extensions of such system within municipalities, which ~~has been~~ *was* approved by the Secretary of Transportation pursuant to subsection (b) of § 103 of Title 23, United States Code, as that system existed on June 1, 1991.

"Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this Commonwealth.

"Historic place, museum or shrine" includes only places that are maintained wholly at public expense or by a nonprofit organization.

"Information center" means an area or site established and maintained at rest areas for the purpose of

informing the public of places of interest within the Commonwealth and providing such other information as the Commonwealth may consider desirable.

"Interchange" means a grade separated intersection with one or more turning roadways for travel between intersection legs, or an intersection at grade, where two or more highways join or cross.

"Lawfully erected" means any sign that was erected pursuant to the issuance of a permit from the Commonwealth Transportation Commissioner under § 33.1-360 unless the local governing body has evidence of noncompliance with ordinances in effect at the time the sign was erected.

"Legible" means capable of being read without visual aid by a person of normal visual acuity.

"Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

"Maintain" means to allow to exist.

"Municipalities" means cities and incorporated towns.

"National highway system" means the federal-aid highway system described in subsection (b) of § 103 of Title 23, United States Code, and regulations adopted pursuant thereto. For the purpose of this article, outdoor advertising controls on the national highway system shall be implemented as those highways are designated and approved by congressional action and such designation and approval shall be kept on file in the central office of the Department of Transportation and placed in the minutes of the Commonwealth Transportation Board by the Commonwealth Transportation Commissioner. Prior to congressional approval, highways classified as National System of Interstate and Defense Highways, Dwight D. Eisenhower National System of Interstate and Defense Highways, Interstate System, or federal-aid primary as defined herein shall be considered as the national highway system.

"National System of Interstate and Defense Highways," "Dwight D. Eisenhower National System of Interstate and Defense Highways," and "Interstate System" means the system presently defined in subsection (e) of § 103 of Title 23, United States Code.

A "nonconforming sign," "nonconforming advertisement," or "nonconforming advertising structure" is one which was lawfully erected adjacent to any highway in the Commonwealth, but which does not comply with the provisions of state law, state regulations, or ordinances adopted by local governing bodies passed at a later date or which later fails to comply with state law, state regulations, or ordinances adopted by local governing bodies due to changed conditions.

"Person" includes an individual, partnership, association or corporation.

"Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

"Real property" includes any property physically attached or annexed to real property in any manner whatsoever.

"Rest area" means an area or site established and maintained within or adjacent to the right-of-way or under public supervision or control, for the convenience of the traveling public.

"Scenic area" means any public park, area of particular scenic beauty or historical significance designated as a scenic area by the Commonwealth Transportation Board.

"Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any highway.

"Town" means an incorporated town.

"Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

"Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

"Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.

"Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the "urbanized area" within the Commonwealth, or an urban place.

"Urban place" means an area so designated by the United States Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries fixed by the Commonwealth Transportation Commissioner, in his discretion, in cooperation with the governing bodies of the several counties, towns or cities affected and the appropriate federal authority. Such boundaries shall, as a minimum, encompass the entire urban place designated by the United States Bureau of the Census.

"Urbanized area" means an area so designated by the United States Bureau of the Census, within boundaries fixed by the Commonwealth Transportation Commissioner, in his discretion, in cooperation with the governing bodies of the several counties, towns or cities affected and the appropriate federal authority. Such boundaries shall, as a minimum, encompass the entire urbanized area within a state as

designated by the United States Bureau of the Census.

"Virginia byway" and "scenic highway" mean those highways designated by the Commonwealth Transportation Board pursuant to Article 5 (§ 33.1-62 et seq.) of Chapter 1 of this title. For the purposes of the article, a Virginia byway shall mean a scenic byway as referenced in Title 23, United States Code, § 131 (s).

"Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 33.1-391.2. Department of Rail and Public Transportation created; Chief Executive Officer for Transportation to serve as Director.

There is hereby created a Department of Rail and Public Transportation ~~reporting to the Secretary of Transportation and~~, subject to the policy oversight of the Commonwealth Transportation Board. The ~~Department~~ *Chief Executive Officer for Transportation, elected by the Commonwealth Transportation Board as provided in § 33.1-3,* shall ~~be headed by a~~ *serve as* Director *of the Department,* hereinafter referred to in this title as ~~"Director,"~~ ~~who shall be appointed by and serve at the pleasure of the Governor~~*"Director."* ~~The Director shall serve as a nonvoting ex-officio member of the Commonwealth Transportation Board and any committee dealing with passenger and freight rail, transportation demand management, ridesharing, and public transportation issues.~~

§ 33.1-391.3:1. Powers, duties, and responsibilities of Rail Advisory Board transferred to Commonwealth Transportation Board.

~~There is hereby established the Rail Advisory Board to consist of nine members appointed by the Governor for terms of four years. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. One of such appointees shall be an at-large member of the Commonwealth Transportation Board. The members of the Board shall elect a Chairman. The Board may, by majority vote, choose one of its members to serve as vice-chairman~~*All powers, duties, and responsibilities heretofore vested in the Rail Advisory Board are hereby transferred to the Commonwealth Transportation Board, hereinafter referred to as "the Board."* The Board shall, in consultation with the Director, develop recommendations to be presented to the Commonwealth Transportation Board regarding allocations of funds from the Rail Enhancement Fund. The Board shall also advise the Director and the Department on other matters at the request of the Director or the Department. The Board shall meet at the call of the Chairman. A majority of the members shall constitute a quorum for the conduct of all Board business. ~~The provisions of § 2.2-3112 shall not apply to members of the Rail Advisory Board.~~

The Board shall have the following responsibilities:

1. In consultation with, and with the assistance of the Director, the Board shall develop recommendations to be presented to the Commonwealth Transportation Board regarding all proposed allocations of funds from the Rail Enhancement Fund.

2. The Board shall work cooperatively with the Director of the Department of Rail and Public Transportation and with any affected railroad in identifying, developing, and advocating projects and policies to enhance the quality and utility to the public of rail transportation in the Commonwealth.

3. At the request of the Director, the Board shall consider and advise the Director and the Department on any other matter or matters pertaining to transportation in the Commonwealth.

Members of the Board shall receive no compensation, but shall be reimbursed their actual and necessary expenses incurred in connection with their official duties. Staff support for the Board shall be provided by the Department of Rail and Public Transportation.

§ 33.1-391.5. Responsibilities of Department.

The Department shall have the following responsibilities:

1. Determine present and future needs for, and economic feasibility of providing, public transportation, transportation demand management, and ridesharing facilities and services and the retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;

2. Formulate and implement plans and programs for the establishment, improvement, development and coordination of public transportation, transportation demand management, and ridesharing facilities and services, and the retention and improvement of passenger and freight rail transportation services and corridors in the Commonwealth, and coordinate transportation demand management and innovative technological transportation initiatives with the Department of Transportation;

3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and planning for the rail and public transportation modes as may be appropriate to ensure the provision of effective, safe, and efficient public transportation and passenger and freight rail services in the Commonwealth;

4. Develop uniform financial and operating data on and criteria for evaluating all public transportation activities in the Commonwealth, develop specific methodologies for the collection of such data by public transit operators, regularly and systematically verify such data by means of financial audits and periodic field reviews of operating data collection methodologies, and develop such other

information as may be required to evaluate the performance and improve the economy or efficiency of public transit or passenger and freight rail operations, transportation demand management programs, and ridesharing in the Commonwealth;

5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in the Commonwealth abandoned after January 1, 1970;

6. Provide training and other technical support services to transportation operators and ridesharing coordinators as may be appropriate to improve public transportation, ridesharing, and passenger and freight rail services;

7. Maintain liaison with state, local, district and federal agencies or other entities, private and public, having responsibilities for passenger and freight rail, transportation demand management, ridesharing, and public transportation programs;

8. Receive, administer and allocate all planning, operating, capital, and any other grant programs from the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway Administration, and other agencies of the United States government for public transportation, passenger and freight rail transportation, transportation demand management, and ridesharing purposes with approval of the Board and to comply with all conditions attendant thereto;

9. Administer all state grants for public transportation, rail transportation, ridesharing, and transportation demand management purposes with approval of the Board;

10. Promote the use of public transportation, transportation demand management, ridesharing, and passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of goods;

11. Represent the Commonwealth on local, regional, and national agencies, industry associations, committees, task forces, and other entities, public and private, having responsibility for passenger and freight rail, transportation demand management, ridesharing, and public transportation;

12. Represent the Commonwealth's interests in passenger and freight rail, transportation demand management, ridesharing, and public transportation and coordinate with the Department of Transportation in the planning, location, design, construction, implementation, monitoring, evaluation, purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail, transportation demand management, ridesharing, or public transportation;

13. Coordinate with the State Corporation Commission on all matters dealing with rail safety inspections and rail regulations which fall within its purview;

14. Prepare and review state legislation and Commonwealth recommendations on federal legislation and regulations as directed by the ~~Secretary of Transportation~~*Chief Executive Officer for Transportation*; and

15. Promote public transportation, ridesharing, and passenger and freight rail safety.

§ 46.2-200. Department of Motor Vehicles.

There shall be a Department of Motor Vehicles in the executive department, responsible to the Secretary of ~~Transportation~~*Finance*. The Department shall be under the supervision and management of the Commissioner of the Department of Motor Vehicles.

The Department shall be responsible for the administration of the motor vehicle license, registration and title laws; the issuance, suspension, and revocation of driver's licenses; the examination of applicants for and holders of driver's licenses; the administration, training, disciplining, and assignment of examiners of applicants for driver's licenses; the administration of the safety responsibility laws, fuel tax laws, the provisions of this title relating to transportation safety, and dealer licensing laws; the registration of carriers of passengers or property and vehicles that may be required to be registered under the International Registration Plan or pay road tax as described under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 under the International Fuel Tax Agreement; the audit of carriers of passengers or property for compliance with registration and road tax requirements; proof of financial responsibility; and any other services that may be required to create a single point of contact for motor carriers operating within and without the Commonwealth, including the operation of permanent and mobile motor carrier service centers.

§ 46.2-206. Disposition of fees.

Except as otherwise provided in this title, all fees and moneys collected pursuant to the provisions of Chapters 1, 2, 3, 6, 8, 10, 12, and 16 through 26 of this title shall be paid into the state treasury, and warrants for the expenditure of funds necessary for the proper enforcement of this title shall be issued by the Comptroller on certificates of the Commissioner or his representatives, designated by him and bonded, that the parties are entitled thereto, and shall be paid by the State Treasurer out of such funds, not exceeding the amount appropriated in the general appropriation bill.

These funds, except as is otherwise provided in this section, shall constitute special funds within the Commonwealth Transportation Fund to be expended (i) under the direction of the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ for the construction, reconstruction, and maintenance

of roads and bridges in the state highway system, interstate system, and secondary system of state highways and (ii) as authorized by the Commissioner for the expenses incident to the maintenance of the Department, including its customer service centers, and for other expenses incurred in the enforcement of this title. Any funds available for construction or reconstruction under the provisions of this section shall be, as nearly as possible, equitably apportioned by the Commonwealth Transportation Commission among the several construction districts. Beginning July 1, 1998, any balances remaining in these funds at the end of the fiscal year shall be available for use in subsequent years for the purposes set forth in this section, and any interest income on such funds shall accrue to the respective individual special funds.

There may be paid out of these funds such sums as may be provided by law for (i) contributions toward the construction, reconstruction, and maintenance of streets in cities or towns and (ii) the operation and maintenance of the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority, the Department of State Police, and the Department of Motor Vehicles.

§ 46.2-223. Additional powers and duties of Commissioner.

The Commissioner shall have the following powers and duties related to transportation safety:

1. To evaluate safety measures currently in use by all transport operators in all modes which operate in or through the Commonwealth, with particular attention to the safety of equipment and appliances and methods and procedures of operation;

2. To engage in training and educational activities aimed at enhancing the safe transport of passengers and property in and through the Commonwealth;

3. To cooperate with all relevant entities of the federal government, including, but not limited to, the Department of Transportation, the Federal Railway Administration, the Federal Aviation Administration, the Coast Guard, and the Independent Transportation Safety Board in matters concerning transportation safety;

4. To initiate, conduct, and issue special studies on matters pertaining to transportation safety;

5. To evaluate transportation safety efforts, practices, and procedures of the agencies or other entities of the government of the Commonwealth and make recommendations to the ~~Secretary of~~*Chief Executive Officer for* Transportation, the Governor, and the General Assembly on ways to increase transportation safety consciousness or improve safety practices;

6. To assist entities of state government and political subdivisions of the Commonwealth in enhancing their efforts to ensure safe transportation, including the dissemination of relevant materials and the rendering of technical or other advice;

7. To collect, tabulate, correlate, analyze, evaluate, and review the data gathered by various entities of the state government in regard to transportation operations, management, and accidents, especially the information gathered by the Department of Motor Vehicles, the Department of State Police, and the State Corporation Commission;

8. To develop, implement, and review, in conjunction with relevant state and federal entities, a comprehensive highway safety program for the Commonwealth, and to inform the public about it;

9. To assist towns, counties and other political subdivisions of the Commonwealth in the development, implementation, and review of local highway safety programs as part of the state program;

10. To review the activities, role, and contribution of various state entities to the Commonwealth's highway safety program and to report annually and in writing to the Governor and General Assembly on the status, progress, and prospects of highway safety in the Commonwealth;

11. To recommend to the ~~Secretary of~~*Chief Executive Officer for* Transportation, the Governor, and the General Assembly any corrective measures, policies, procedures, plans, and programs which are needed to make the movement of passengers and property on the highways of the Commonwealth as safe as practicable;

12. To design, implement, administer, and review special programs or projects needed to promote highway safety in the Commonwealth;

13. To integrate highway safety activities into the framework of transportation safety in general; and

14. To administer the Traffic Safety Fund established pursuant to § 46.2-749.2:10 and to accept grants, gifts, bequests, and other moneys contributed to, deposited in, or designated for deposit in the Fund.

§ 46.2-224. Board of Transportation Safety.

There is hereby established within the Department of Motor Vehicles a Board of Transportation Safety, hereinafter referred to in this section as "the Board," to advise the Commissioner of Motor Vehicles, the ~~Secretary of~~*Chief Executive Officer for* Transportation, and the Governor on transportation safety matters. The Board shall elect a chairman and meet at his call, and shall seek to identify the elements of a comprehensive safety program for all transport modes operating in Virginia. In addition, the Board may consider, study, and report on the following issues: (i) the identification of the unique safety needs of each particular mode of transportation; (ii) the identification of the common elements of

safe transportation operation, regardless of mode of transportation; (iii) the adoption of proven safety practices and technology in use in one mode to other modes of transportation; (iv) the identification of the common elements of accident situations; and (v) the allocation of grant funds made available to the Department.

The Board shall consist of twelve members appointed by the Governor, subject to confirmation of the General Assembly. One member shall be appointed from each of the geographic operating districts used by the Department and shall reside in the district from which he is appointed. The remaining members shall be at-large members representing transportation safety interests in the areas of air, rail, water, motor carriers, pupil transportation, pedestrians, bicyclists, and public transit and, insofar as practical, should reflect fair and equitable statewide representation. Members shall serve for terms of four years, and no member shall serve for more than two full consecutive terms. Appointment and confirmation of Board members under this section shall occur only as the terms of the current members of the Board expire under prior law.

Board members shall be reimbursed for their necessary and actual expenses incurred in the performance of their duties.

§ 46.2-302. Driving while restoration of license is contingent on furnishing proof of financial responsibility.

No resident or nonresident (i) whose driver's license or learner's permit has been suspended or revoked by any court or by the Commissioner or by operation of law, pursuant to the provisions of this title or of § 18.2-271, or who has been disqualified pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), or (ii) who has been forbidden as prescribed by law by the Commissioner, the State Corporation Commission, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, or the Superintendent of State Police, to drive a motor vehicle in the Commonwealth shall drive any motor vehicle in the Commonwealth during any period wherein the restoration of license or privilege is contingent upon the furnishing of proof of financial responsibility, unless he has given proof of financial responsibility in the manner provided in Article 15 (§ 46.2-435 et seq.) of Chapter 3 of this title. Any person who drives a motor vehicle on the roads of the Commonwealth and has furnished proof of financial responsibility but who has failed to pay a reinstatement fee, shall be tried under § 46.2-300.

A first offense violation of this section shall constitute a Class 2 misdemeanor. A second or subsequent violation of this section shall constitute a Class 1 misdemeanor.

§ 46.2-373. Report by law-enforcement officer investigating accident.

A. Every law-enforcement officer who in the course of duty investigates a motor vehicle accident resulting in injury to or death of any person or total property damage to an apparent extent of $1,000 or more, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses shall, within twenty-four hours after completing the investigation, forward a written report of the accident to the Department. The report shall include the name or names of the insurance carrier or of the insurance agent of the automobile liability policy on each vehicle involved in the accident.

B. Any report filed pursuant to subsection A of this section shall include information as to (i) the speed of each vehicle involved in the accident and (ii) the type of vehicles involved in all accidents between passenger vehicles and vehicles or combinations of vehicles used to transport property, and (iii) whether any trucks involved in such accidents were covered or uncovered.

C. The Department shall supply copies of accident reports received under this section to the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, who shall exercise the authority granted to him under §§ 46.2-870 through 46.2-878 to reduce speed limits where accident frequency or severity or other factors may indicate the course of action to be warranted.

§ 46.2-675. Certain vehicles engaged in mining or quarrying operations; permit when such vehicle required to cross public highways.

No person shall be required to obtain the registration certificate, license plates and decals or to pay a registration fee prescribed for any motor vehicle engaged in coal mining operations or other types of mining and quarrying operations, if the sole function of the motor vehicle is to haul coal from mine to tipple or to haul other mined or quarried products from mine or quarry to a processing plant. The owner of the vehicle, however, shall first obtain, without charge, a permit from the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ in any case in which the motor vehicle is required to cross the public highways. The ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ shall not issue the permit unless he is satisfied that the owner of the motor vehicle has, at his own expense, strengthened the highway crossing so that it will adequately bear the load and has provided adequate signs, lights, or flagmen as may be required for the protection of the public. Any damage done to the highways as a result of this operation shall be repaired in a manner satisfactory to the Commonwealth Transportation Commissioner at the expense of the vehicle's owner.

§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification system in conjunction with certain toll facilities; penalty.

A. The operator of any toll facility or the locality within which such toll facility is located may install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle identification system, or both, at locations where tolls are collected for the use of such toll facility. The operator of a toll facility shall send an invoice or bill for unpaid tolls to the registered owner of a vehicle as part of an electronic or manual toll collection process, prior to seeking remedies under this section.

B. Information collected by a photo-monitoring system or automatic vehicle identification system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or upon order from a court of competent jurisdiction. Information collected under this section shall be purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic vehicle identification system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ or the Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed $100 per violation. Such fee shall not be levied upon the operator of the vehicle until the second unpaid toll has been documented. The operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in an invoice or bill issued by a toll facility operator. If paid within 30 days of notification, the administrative fee shall not exceed $25.

C. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a civil penalty as follows: for a first offense, $50; for a second offense within one year from the first offense, $100; for a third offense within two years from the second offense, $250; and for a fourth and any subsequent offense within three years from the second offense, $500 plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll.

D. Any action under this section shall be brought in the General District Court of the city or county in which the toll facility is located.

E. Proof of a violation of this section shall be evidenced by information obtained from a photo-monitoring system or automatic vehicle identification system as provided in this section. A certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-monitoring system, or of electronic data collected by an automatic vehicle identification system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or electronic data evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this section. A record of communication by an automatic vehicle identification device with the automatic vehicle identification system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle identification device was located in the vehicle registered to use such device in the records of the Virginia Department of Transportation.

F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection K of this section was operated in violation of this section.

Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to subsection K of this section was in violation of this section, the court shall impose a civil penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified in subsection C of this section, together with applicable court costs, the operator's administrative fee and

the toll due. Penalties assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be remanded by the clerk of the court which adjudicated the action to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator.

The registered owner of such vehicle shall be given reasonable notice by way of a summons as provided in subsection K of this section that his vehicle had been used in violation of this section and such owner shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the violation and providing the legal name and address of the operator of the vehicle at the time of the violation, a summons will also be issued to the alleged operator of the vehicle at the time of the offense.

In any action against a vehicle operator, an affidavit made by the registered owner providing the name and address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the person named in the affidavit was operating the vehicle at all the relevant times relating to the matter named in the affidavit.

If the registered owner of the vehicle produces a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the registered owner of the vehicle.

G. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for the vehicle driven in the commission of the offense until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a court that the person identified in an affidavit pursuant to subsection F as the operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such person until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Fund or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department of Transportation, to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator. The Commissioner shall collect a $40 administrative fee from the registered owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.

H. For purposes of this section, "operator of a toll facility other than the Virginia Department of Transportation" means any agency, political subdivision, authority, or other entity that operates a toll facility; "owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company; "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section; "automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

I. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least 30 days from the date of such mailing before pursuing other remedies under this section. In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit

identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter named in the summons.

J. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the driving record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine or cost imposed or ordered paid under this section for a violation of this section.

K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the registered owner has named and provided a valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

L. The operator of a toll facility may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Virginia Department of Transportation to obtain any information that is necessary to conduct electronic toll collection. Information provided to the operator of a toll facility shall only be used for the collection of unpaid tolls and the operator of the toll facility shall be subject to the same conditions and penalties regarding release of the information as contained in subsection B.

M. No person shall be subject to both the provisions of this section and to prosecution under § 46.2-819 for actions arising out of the same transaction or occurrence.

§ 46.2-873.1. Maximum speed limit on nonsurface treated highways for certain counties.

The maximum speed limit on nonsurface treated highways, which are roads that are comprised of an earth-aggregate or aggregate surface (i.e., dirt and gravel) that have not been stabilized with a bituminous or cementitious material, shall be 35 miles per hour. The maximum speed limit upon such highways may be increased or decreased by the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ or other authority having jurisdiction over highways. However, such increased or decreased maximum speed limit shall be effective only when indicated by sign on the highway. For such highways upon which maximum speed limit is not indicated by sign, the maximum speed limit shall be 35 miles per hour.

The provisions of this section shall apply only in the Counties of Clarke, Fauquier, Frederick, Loudoun, Montgomery, Warren, and Wythe.

§ 46.2-877. Minimum speed limits.

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Whenever the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or local authorities within their respective jurisdictions determine on the basis of a traffic engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the ~~Commissioner~~ *Chief Executive Officer for Transportation* or such local authority may determine and declare a minimum speed limit to be set forth on signs posted on such highway below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

§ 46.2-878. Authority to change speed limits.

Notwithstanding the other provisions of this article, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or other authority having jurisdiction over highways may decrease the speed limits set forth in § 46.2-870 and may increase or decrease the speed limits set forth in §§ 46.2-873 through 46.2-875 on any highway under its jurisdiction; and may establish differentiated speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in § 46.2-870 and by increasing for daytime or decreasing for nighttime the speed limits set forth in §§ 46.2-873 through 46.2-875 on any highway under his jurisdiction. Such increased or decreased speed limits and such differentiated speed limits for daytime and nighttime driving shall be effective only when prescribed after a traffic engineering investigation and when indicated on the highway by signs. It shall be unlawful to operate any motor vehicle in excess of speed limits established and posted as provided in this section. The increased or decreased speed limits over highways under the control of the

~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ shall be effective only when prescribed in writing by the *Chief Executive Officer for* Transportation ~~Commissioner~~ and kept on file in the Central Office of the Department of Transportation. Whenever the speed limit on any highway has been increased or decreased or a differential speed limit has been established and such speed limit is properly posted, there shall be a rebuttable presumption that the change in speed was properly established in accordance with the provisions of this section.

§ 46.2-881. Special speed limitation on bridges, tunnels and interstates.

It shall be unlawful to drive any motor vehicle, trailer, or semitrailer on any public bridge, causeway, viaduct, or in any tunnel, or on any interstate at a speed exceeding that indicated as a maximum by signs posted thereon or at its approach by or on the authority of the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~.

The ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, on request or on his own initiative, may conduct an investigation of any public bridge, causeway, viaduct, tunnel, or interstate and, on the basis of his findings, may set the maximum speed of vehicles which such structure or roadway can withstand or which is necessitated in consideration of the benefit and safety of the traveling public and the safety of the structure or roadway. The ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ is expressly authorized to establish and indicate variable speed limits on such structures or roadways to be effective under such conditions as would in his judgment, warrant such variable limits, including but not limited to darkness, traffic conditions, atmospheric conditions, weather, emergencies, and like conditions which may affect driving safety. Any speed limits, whether fixed or variable, shall be prominently posted in such proximity to such structure or roadway as deemed appropriate by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~. The findings of the ~~Commissioner~~ *Chief Executive Officer for Transportation* shall be conclusive evidence of the maximum safe speed which can be maintained on such structure or roadway.

§ 46.2-883. Signs indicating legal rate of speed and measurement of speed by radar.

Signs to indicate the legal rate of speed and that the speed of motor vehicles may be measured by radar or other electrical devices shall be placed at or near the State boundary on those interstate and primary highways which connect the Commonwealth to other jurisdictions at such locations as the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, in his discretion, may select. There shall be a prima facie presumption that such signs were placed at the time of the commission of the offense of exceeding the legal rate of speed, and a certificate by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ as to the placing of such signs shall be admissible in evidence to support or rebut the presumption. Such legal rate of speed and notice of measurement of speed by radar or other electrical devices may be posted on different signs and need not be posted on the same sign.

§ 46.2-930. Loitering on bridges or highway rights-of-way.

Pedestrians shall not loiter on any bridge or in any portion of the right-of-way of any highway where loitering has been determined by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the local governing body of any city or town to present a public safety hazard and on which the ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ or the governing body of any city or town has posted signs prohibiting such action. Any person violating the provisions of this section shall be guilty of a traffic infraction.

§ 46.2-932. Playing on highways; use of toy vehicle on highways, persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, etc., not to attach to vehicles; exception.

A. No person shall play on a highway, other than on the sidewalks thereof, within a city or town or on any part of a highway outside the limits of a city or town designated by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ exclusively for vehicular travel. No person shall use any toy vehicle on the roadway of any highway that (i) has a speed limit greater than 25 miles per hour, (ii) has more than two travel lanes, or (iii) is located outside a residence district as defined in § 46.2-100. The governing bodies of counties, cities, and towns may designate areas on highways under their control where play is permitted and may impose reasonable restrictions on play on such highways. Persons using such devices, except bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, and motorcycles, shall keep as near as safely practicable to the far right side or edge of the right traffic lane so that they will be proceeding in the same direction as other traffic.

No person riding on any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, roller skates, skateboards or other devices on wheels or runners, shall attach the same or himself to any vehicle on a highway.

B. Notwithstanding the provisions of subsection A of this section, the governing body of Arlington County may by ordinance permit the use of devices on wheels or runners on highways under such

county's control, subject to such limitations and conditions as the governing body may deem necessary and reasonable.

§ 46.2-1104. Reduction of limits by Chief Executive Officer for Transportation and local authorities; penalties.

The ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~, acting through employees of the Department of Transportation, may prescribe the weight, width, height, length, or speed of any vehicle or combination of vehicles passing over any highway or section of highway or bridge constituting a part of the interstate, primary, or secondary system of highways. Any limitations thus prescribed may be less than those prescribed in this title whenever an engineering study discloses that it would promote the safety of travel or is necessary for the protection of any such highway.

If the reduction of limits as provided in this section is to be effective for more than 90 days, a written record of this reduction shall be kept on file at the central office of the Department of Transportation. In instances where the limits, including speed limits, are to be temporarily reduced, the representative of the Department of Transportation in the county wherein such highway is located shall immediately notify the Chief Engineer for the Department of Transportation of such reduction. The Chief Engineer shall either affirm or rescind the action of reducing such limits within five days from the date the limits have been posted as hereinafter provided. A list of all highways on which there has been a reduction of limits as herein provided shall be kept on file at the central office of the Department of Transportation. Anyone aggrieved by such reduction of limits may appeal directly to the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ for redress, and if he affirms the action of reducing such limits, the Commonwealth Transportation Board shall afford any such aggrieved person the opportunity of being heard at its next regular meeting.

The local authorities of counties, cities, and towns, where the highways are under their jurisdiction, may adopt regulations or pass ordinances decreasing the weight limits prescribed in this title for a total period of no more than 90 days in any calendar year, when an engineering study discloses that operation over such highways or streets by reason of deterioration, rain, snow, or other climatic conditions will seriously damage such highways unless such weights are reduced.

In all instances where the limits for weight, size, or speed have been reduced by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the weights have been reduced by local authorities pursuant to this section, signs stating the weight, height, width, length, or speed permitted on such highway shall be erected at each end of the section of highway affected and no such reduced limits shall be effective until such signs have been posted.

It shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or local authorities pursuant to this section.

Any violation of any provision of this section shall constitute a Class 2 misdemeanor. Furthermore, the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

§ 46.2-1109. Widths of commercial vehicles.

No commercial vehicle shall exceed 102 inches in width when operating on any interstate highway or on any highway designated by the Commonwealth Transportation Board. The width limitation in this section shall not include rear view mirrors, turn signal lights, handholds for cab entry and egress, splash suppressant devices, and load-induced tire bulge. Safety devices, with the exception of rear view mirrors, shall not extend more than three inches on each side of a vehicle. The Commonwealth Transportation Board shall designate reasonable access to terminals, facilities for food, fuel, repairs, and rest. Household goods carriers and any tractor truck semitrailer combination in which the semitrailer has a length of no more than twenty-eight and one-half feet shall not be denied reasonable access to points of loading and unloading, except as designated, based on safety considerations, by the Commonwealth Transportation Board. No reasonable access designation shall be made, however, until notice of any proposed designation has been provided by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ to the governing body of every locality wherein any highway affected by the proposed designation is located.

For the purposes of this section, a commercial vehicle is defined as a loaded or empty motor vehicle, trailer, or semitrailer designed or regularly used for carrying freight, merchandise, or more than ten passengers, including buses, but not including vehicles used for vanpools.

§ 46.2-1110. Height of vehicles; damage to overhead obstruction; penalty.

No loaded or unloaded vehicle shall exceed a height of 13 feet, six inches.

Nothing contained in this section shall require either the public authorities or railroad companies to provide vertical clearances of overhead bridges or structures in excess of 12 feet, six inches, or to make any changes in the vertical clearances of existing overhead bridges or structures crossing highways. The driver or owner of vehicles on highways shall be held financially responsible for any damage to

overhead bridges or structures that results from collisions therewith.

The driver or owner of any vehicle colliding with an overhead bridge or structure shall immediately notify, either in person or by telephone, a law-enforcement officer or the public authority or railroad company, owning or maintaining such overhead bridge or structure of the fact of such collision, and his name, address, driver's license number, and the registration number of his vehicle. Failure to give such notice immediately, either in person or by telephone, shall constitute a Class 1 misdemeanor.

On any highway over which there is a bridge or structure having a vertical clearance of less than 14 feet, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ shall have at least two signs erected setting forth the height of the bridge or structure. Such signs shall be located at least 1,500 feet ahead of the bridge or structure.

The Virginia Department of Transportation may install and use overheight vehicle optical detection systems to identify vehicles that exceed the overhead clearance of the westbound tunnel of the Hampton Roads Bridge Tunnel on Interstate Route 64. When the optical system sensor located closest to the westbound tunnel entrance is used in identifying such vehicles, the system shall be installed at the specified height as determined by measurement standards that have been certified by the Commissioner of the Virginia Department of Agriculture and Consumer Services, and are traceable to national standards of measurement. Such identification by such system shall, for all purposes of law, be equivalent to having measured the height of the vehicle with a tape measure or other measuring device.

Any person who drives or attempts to drive any vehicle or combination of vehicles into or through any tunnel when the height of such vehicle, any vehicle in a combination of vehicles, or any load on any such vehicle exceeds that permitted for such tunnel, shall be guilty of a misdemeanor and, in addition, shall be assessed three driver demerit points. In addition, the driver of any such vehicle shall be fined $1,000, of which $1,000 shall be a mandatory minimum. For subsequent offenses, the owner of any such vehicle shall be fined $2,500, of which $2,500 shall be a mandatory minimum.

A violation of this section shall be deemed for all purposes a moving violation.

§ 46.2-1112. Length of vehicles, generally; special permits; tractor truck semitrailer combinations, etc., operating on certain highways; penalty.

Except for buses and motor homes, no motor vehicle longer than 40 feet shall be operated on any highway in the Commonwealth. The actual length of any combination of vehicles coupled together including any load thereon shall not exceed a total of 65 feet. However, the length of a tractor truck semitrailer combination may exceed 65 feet in length, provided the semitrailer does not exceed 53 feet in length and the distance between the kingpin of the semitrailer and the rearmost axle or a point midway between the rear tandem axles does not exceed 41 feet. The ~~Commonwealth~~ *Chief Executive Office for* Transportation ~~Commissioner~~ may impose restrictions on the operation of vehicles exceeding 65 feet in length on certain roads, based on a safety and engineering analysis. No bus or motor home longer than 45 feet shall be operated on any highway in the Commonwealth. No tolerance shall be allowed that exceeds 12 inches.

The Commissioner, however, when good cause is shown, may issue a special permit for combinations either in excess of 65 feet, including any load thereon, or where the object or objects to be carried cannot be moved otherwise. Such permits may also be issued by the Department when the total number of otherwise overdimensional loads of modular housing of no more than two units may be reduced by permitting the use of an overlength trailer not exceeding 54 feet. No permit shall be issued by the Commissioner until an engineering analysis of a proposed routing has been conducted by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ to assess the ability of the roadway to be traversed to sustain the vehicle's size.

No overall length restrictions, however, shall be imposed on any tractor truck semitrailer combinations drawing one trailer or any tractor truck semitrailer combinations when operated on any interstate highway or on any highway as designated by the Commonwealth Transportation Board. No such designation shall be made, however, until notice of any proposed designation has been provided by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ to the governing body of every locality wherein any highway affected by the proposed designation is located.

No individual semitrailer or trailer being drawn in a tractor truck semitrailer trailer combination, however, shall exceed 28 1/2 feet in length, and no semitrailer being operated in a tractor truck semitrailer combination shall exceed 48 feet in length, except when semitrailers have a distance of not more than 41 feet between the kingpin of the semitrailer and the rearmost axle or a point midway between the rear tandem axles, such semitrailer shall be allowed not more than 53 feet in length.

The length limitations on semitrailers and trailers in the foregoing provisions of this section shall be exclusive of safety and energy conservation devices, steps and handholds for entry and egress, rubber dock guards, flexible fender extensions, mudflaps, refrigeration units, and air compressors. The Commonwealth Transportation Board shall designate reasonable access to terminals, facilities for food, fuel, repairs and rest. Household goods carriers and any tractor truck semitrailer combination in which

the semitrailer has a length of no more than 28 1/2 feet shall not be denied reasonable access to points of loading and unloading, except as designated, based on safety considerations, by the Commonwealth Transportation Board.

Any person operating a vehicle whose length is not in conformity with the provisions of this chapter on a two-lane highway where passing is permitted shall be guilty of a traffic infraction and fined $250.

§ 46.2-1144.1. Overweight permits for tank wagons.

The Commissioner, upon written application and payment of a fee by the owner of tank wagon vehicles as defined in § 58.1-2201, shall issue overweight permits for operation of said vehicles.

The overweight permit fees shall be based on a fee schedule established by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~. Such fees shall be dedicated to and deposited into the Highway Maintenance and Operating Fund.

The Commissioner may also assess a separate application fee for applications pursuant to this section that covers the administrative expenses of the Department. Funds from the application fee are to be designated as specified in § 46.2-1149.3.

No permit issued under this section shall authorize a single axle weight of more than 24,000 pounds and a total gross weight in excess of 40,000 pounds. Permits issued under this section shall be valid for one year from the date of issuance. No permit issued under this section shall authorize violation of any weight limitation, promulgated and posted in accordance with § 46.2-1130, applicable to bridges or culverts. This permit shall not be combined with any other overweight permit or extension of weight limits.

§ 46.2-1145. Overweight permits for certain trucks operated by Arlington County.

The ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~, upon written application by Arlington County, shall issue without cost to such county a permit authorizing the county's operation of vehicles used for hauling household waste and vehicles used for highway or utility construction, operation, or maintenance upon the highways of such county at gross weights exceeding those set forth in § 46.2-1126. Permits issued hereunder shall specify that vehicles with two axles may have a maximum gross weight of no more than 48,000 pounds and a single axle weight of not more than 24,000 pounds and that vehicles with three axles may have a maximum gross weight of not more than 60,000 pounds and a single axle weight of not more than 24,000 pounds and a tandem axle weight of not more than 40,000 pounds.

The permit shall not designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways. Each vehicle, when loaded according to the provisions of a permit issued under this section shall be operated at a reduced speed of ten miles per hour slower than the legal speed limit in fifty-five, forty-five, and thirty-five miles per hour speed limit zones.

§ 46.2-1223. Authority of Chief Executive Officer for Transportation to regulate parking on certain parts of State Highway System.

Except as otherwise provided in this article, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ may, by regulation, regulate parking on any part of the primary and secondary systems of state highways.

§ 46.2-1307. Designation of private roads as highways for law-enforcement purposes.

The governing body of any county, city, or town may adopt ordinances designating the private roads, within any residential development containing 100 or more lots or residential dwelling units, as highways for law-enforcement purposes. Such ordinance may also provide for certification of road signs and speed limits by private licensed professional engineers using criteria developed by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, and, for law-enforcement purposes, such certification shall have the same effect as if certified by the Commonwealth Transportation Commissioner.

§ 46.2-1307.1. Designation of private roads as highways for law-enforcement purposes in Warren County.

Notwithstanding the provisions of § 46.2-1307, the governing body of Warren County may adopt ordinances designating the private roads, within any residential development containing 50 or more lots, as highways for law-enforcement purposes. Such ordinance may also provide for certification of road signs and speed limits by private licensed professional engineers using criteria developed by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, and, for law-enforcement purposes, such certification shall have the same effect as if certified by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~.

§ 53.1-58. Highway employees as guards.

The Director, with the consent of the ~~Commonwealth~~ *Chief Executive Office for* Transportation ~~Commissioner~~, may appoint and authorize employees of the Department of Transportation to act as guards of prisoners when such prisoners are at work on the roads under the jurisdiction of the Commonwealth Transportation Board. Such employees shall be deemed to be acting within the scope of

their official duties for the Board when acting as guards pursuant to this section. The Director may authorize such employees to carry firearms in accordance with § 53.1-29.

§ 55-201.1. Pendency of escheat proceedings no bar to condemnation proceedings.

Notwithstanding any provision contained in this chapter, the ~~Commonwealth~~ *Chief Executive Office for* Transportation ~~Commissioner~~ or any city, town, county or other political subdivision or agency of this Commonwealth possessing the power of eminent domain may, for any public purpose and notwithstanding the pendency of any proceeding brought for the escheat of any land wanted and needed by such ~~Commonwealth~~*Chief Executive Officer for* Transportation ~~Commissioner~~ or such city, town, county or other political subdivision or agency of ~~this~~ *the* Commonwealth for such purpose, institute, maintain and conduct to final judgment condemnation proceedings to acquire in fee simple such land or such lesser estate, title or interest therein as is wanted and needed for such public purpose, provided, however, that the escheator in whose name such escheat proceedings be pending and the Commonwealth of Virginia be made codefendants to such condemnation proceedings, together with the owner or owners, if known, of the land proposed to be condemned in such proceeding. The pendency of such escheat proceedings shall not constitute a bar or defense to such condemnation proceedings, nor to any proceeding therein seeking a right of entry as provided in § 25.1-223, in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, or in Article 7 (§ 33.1-89 et seq.) of Chapter 1 of Title 33.1. No escheator, after being served with notice of the filing of any such condemnation proceeding, shall sell or dispose of any land sought to be acquired in such condemnation proceeding except upon order entered by the court in which such condemnation proceeding is pending. The funds paid into court as compensation and/or damages for the land so taken or damaged shall, after payment of taxes and other claims constituting valid liens against the land so taken, be ordered distributed to the party or parties entitled thereto or be ordered paid to the escheator of said land, or to the State Treasurer, as the court, in its discretion, shall direct.

§ 56-27. Applications required for crossings.

Before the work is commenced upon any such crossing, the public service corporation which proposes to cross the public road shall make written application to and submit to the board of supervisors or other governing body of the county in which such highway is located and to the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ plans, specifications and descriptions of the proposed crossing and of the proposed appliances and methods of operation thereof; and if the plans, specifications and descriptions are not accepted by such board of supervisors or other governing body aforesaid and by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ within ~~sixty~~*60* days after the same shall have been delivered to the clerk of such board of supervisors or other governing body aforesaid and to the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, such public service corporation may then proceed with the construction and operation of the crossing, under the plans, specifications and descriptions and with the appliances and methods so submitted.

§ 56-28. Contest by county or Chief Executive Officer for Transportation.

The board of supervisors or other governing body aforesaid or the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ may, however, within ~~thirty~~*30* days from the date of the submission of such plans, specifications and descriptions, reject the same, and may apply to the Commission to inquire into the necessity for such crossing, and the propriety of the proposed location, and all matters pertaining to its construction and operation; and, thereupon the Commission, in its discretion, may, after notice served upon the public service corporation, the board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, suspend work on such crossing for such reasonable time prescribed in such notice as it may deem necessary to make such inquiry. The Commission may, in its discretion, employ expert engineers, at a cost not to exceed $500, to be paid by the public service corporation desiring the crossing, who shall, with the Commission, or some member thereof, or such person as the Commission may designate, (1) examine the location, plans, specifications and descriptions of appliances and methods proposed to be employed, (2) hear any objection, and consider any modification that the board of supervisors or other governing body aforesaid, or the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, may desire to offer, and, (3) within such time as the Commission may fix, reject, approve, or modify such plans, specifications and descriptions. The final order of the Commission shall, unless an appeal be taken to the Supreme Court by any party to the proceeding within ~~thirty~~*30* days of the date of such final order, be final and binding on the public service corporation and the board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~.

§ 56-29. Change of course of highway to avoid crossings.

If any public service corporation desires that the course of any public road shall be changed to avoid the necessity of any crossing, or frequent crossings of the same, or for any other purpose in connection with the crossing, the change may be made in such manner, and on such terms as may be agreed on by

the company desiring the change and by the board of supervisors or other governing body aforesaid and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, after changes shall have been first clearly indicated on plans and specifications submitted to the board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, and after the plans and specifications shall have been approved in writing both by the board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~.

§ 56-32. Limitation on crossing rights if altering, closing or obstructing highway or stream involved.

No state highway or county road or stream, or watercourse, shall be altered, closed or obstructed by any public service corporation for any of the purposes mentioned in § 56-23 until it shall have first submitted plans and specifications to the board of supervisors or other governing body aforesaid, and to the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, of the proposed alteration, closing or obstruction, and until after the plans and specifications shall have been first approved in writing both by the board of supervisors or other governing body aforesaid, and by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~. And in any such case such public service corporation shall provide and construct an equally convenient highway or waterway in lieu of any such highway or waterway so altered, closed or obstructed.

§ 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to widen, strengthen, remodel, relocate or replace existing crossing structures on public highways.

Whenever a road in the State Highway System or a public highway maintained by a locality (i) crosses a railroad, (ii) is projected across a railroad, or (iii) is to be so changed as to cross a railroad, or an existing overpass or underpass crossing of any such road and a railroad is in need of widening, strengthening, remodeling, relocating or replacing, and funds are (or are to be) allocated by the Commonwealth Transportation Board or public road authority for payment of the locality's or state's portion of the cost of constructing such an overpass or underpass structure or for widening, strengthening, remodeling, relocating or replacing such an existing structure, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or representative of the public road authority may agree with the railroad company or companies involved, on such terms and conditions as he shall deem in the best interests of the Commonwealth or locality regarding the plans and specifications, the method and manner of construction and the division of costs and maintenance responsibility of any such separation of grade structure. In case of a separation of grade by structure at a new, or an existing, grade crossing, the project, except in special cases and under special circumstances to be mutually agreed upon by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, the public road authority, and the railroad company or companies involved, shall be deemed to start at points on each side of the tracks of the railroad or railroads where the grade, under the proposed plans and specifications, leaves the ground line to go over or under, as the case may be, the tracks of the railroad or railroads.

In the event the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, the public road authority, and the railroad company or companies involved are unable to agree on (i) the necessity for the construction of such underpass or overpass structure or for the widening, strengthening, remodeling, relocating or replacing of any existing overpass or underpass structure, (ii) the plans and specifications for and method or manner of construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such project, if any, to be borne by each of the railroad company or companies involved, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the public road authority shall petition the State Corporation Commission setting forth the plans and specifications for and the method and manner of construction of such project and the facts which in his opinion justify the elimination of the crossing, the erection of a new separation of grade structure or the widening, strengthening, remodeling, relocating or replacing of an existing structure and the maintenance responsibility. Copies of the petition and the plans and specifications shall forthwith be served by the State Corporation Commission on the railroad company or companies involved. Within twenty days after service on it of such petition and plans and specifications, the railroad company or companies shall file an answer with the State Corporation Commission setting out its objections to the proposed project and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity and convenience justifies or requires the construction of such new separation of grade structure or whether an existing structure is so dangerous to or insufficient to take care of traffic on the highway as to require the widening, strengthening, remodeling, relocating or replacing proposed, (b) whether the plans and specifications or method and manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne by each of the railroad company or companies involved (excluding the cost of right-of-way) is fair and reasonable, having regard to the benefits, if any, accruing to such railroad or railroads from the elimination of such grade crossing or the

widening, strengthening, remodeling, relocating or replacing any existing overpass or underpass structure, and either dismiss the proceeding as against the railroad company or companies involved or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

Grade crossings shall be closed when replaced by a new public highway. However, the Commonwealth Transportation Board or the public road authority may authorize the continued use of the crossing for a period of two years following the construction of the new highway to familiarize the public with the new route.

§ 56-366.3. Proceedings to alter, rebuild or replace existing grade separation structure destroyed or rendered unusable.

In the event an existing overpass or crossing over a railroad is destroyed or rendered unusable or otherwise becomes necessary to alter, rebuild, or replace, which overpass or crossing is maintained by a railroad company, such company shall immediately notify the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, or the public road authority of its intent to formulate plans for such alteration, rebuilding, or replacement. The ~~Commissioner~~*Chief Executive Officer for Transportation* or the public road authority shall, as soon as practicable after receipt of such notice, determine if, in consideration of the needs of the state systems of highways, the work to be done on such existing separation structure should encompass any upgrading of such overpass. Upon reaching such decision, the ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority shall forthwith notify the company thereof.

If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road authority determines that upgrading is not necessary, the company, within six months of notice thereof, shall, in consultation with the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road authority, formulate and submit plans to the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road authority for the necessary work. As soon as the plans are submitted the Commissioner or representative of the public road authority shall review the same and after determining the plans are satisfactory, shall notify the railroad to begin construction by a specified date and to complete such construction within a specified time limit after considering public safety, convenience and necessity and the amount, nature and extent of the planned construction. All costs of necessary work, including formulation of plans, where upgrading is not necessary, shall be borne by the company. In the event there is a disagreement as to the design, method of construction and date of completion, such dispute shall be resolved under the procedural provisions of § 56-366.1.

If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or public road authority determines that upgrading is necessary or desirable, the same procedure for coordination with the company shall apply except that the parties may agree that the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road authority formulate, and execute plans for such work, in consultation with such company. Disputes as to matters in this regard, including allocation of cost, shall also be resolved by petition to the State Corporation Commission and any new overpass shall be maintained in accordance with § 56-368.1.

When it is necessary only to repair any overpass, maintained by such railroad, the railroad shall perform all work and bear all costs in connection therewith.

All duties under this section shall be performed as expeditiously as possible. Nothing herein shall be construed in any way to limit the authority of the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road authority over public highways and overpasses.

§ 56-369. Elimination of public grade crossings by change of alignment of public highways or construction of replacement public highways.

Whenever the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the appropriate public road authority in improving the alignment of public highways proposes to change the alignment of the highway or construct a replacement public highway and thereby permanently eliminate as a public crossing one or more crossings of a railroad at grade, he may agree with the railroad company involved, on such terms and conditions as he or the representative of the public road authority shall deem in the best interest of the Commonwealth or locality regarding the plans and specifications, the method and manner of construction and the division of costs of so changing the alignment of the highway. Grade crossings shall be closed when replaced by a new public highway. However, the Commonwealth Transportation Board or the public road authority may authorize the continued use of the crossing for a period of two years following the construction of the new public highway to familiarize the public with the new route.

In the event the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the public road authority and the railroad company are unable to agree (i) on the necessity for such change in the alignment of the highway, or (ii) the plans and specifications for the method and manner of construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such project, if any, to be borne by the railroad company involved, the ~~Commonwealth~~ *Chief Executive*

Officer for Transportation ~~Commissioner~~ or the public road authority shall petition the State Corporation Commission setting forth the plans and specifications for the method and manner of changing the alignment of the public highway and the facts which, in his opinion, justify the proposed elimination as a public crossing of one or more crossings of the railroad at grade. Copies of the petition and the plans and specifications shall forthwith be served by the State Corporation Commission on the railroad company involved. Within twenty days after service on it of such petition and plans and specifications, the railroad company involved shall file an answer with the State Corporation Commission setting out its objections to the proposed project and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity and convenience justifies or requires the proposed change in the alignment of the highway which shall not, in respect to any particular project within the meaning of this section, exceed five miles in length, (b) whether the plans and specifications or method and manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne by the railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing to such railroad from the elimination of such grade crossing or crossings, and either dismiss the proceeding as against the railroad company involved or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction, provided, however, that the share of the cost of such project which the Commission may find proper to be borne by the railroad under the provisions of this section, shall not exceed what the Commission might otherwise decide would be the proportion of the cost of constructing an overpass or underpass structure or structures at the point or points where such public grade crossing or crossings are to be eliminated.

§ 56-405. Railroad companies to maintain grade crossings of public highways and approaches; repair by Chief Executive Officer for Transportation or public road authority; recovery of cost from railroad company.

At every crossing, now existing or hereafter established, of a public road by a railroad or of a railroad by a public highway at grade, it shall be the duty of the railroad company to keep such crossing in good repair to the full width of the public highway, and to maintain such crossing in a smooth condition so as to admit of reasonable and safe travel over the same, and it shall also be the duty of the railroad company to maintain and keep in good repair that portion of the highway located between points two feet on either side of the extreme rails. A railroad may request that a public highway be closed for grade crossing maintenance activities, and the representative of the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the representative of the appropriate public road authority may approve such closing where a reasonable detour is available. Any railroad company violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than $10 nor more than $500.

The ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the representative of the public road authority, whenever he or it shall ascertain that any such crossing is not being properly maintained, shall notify the railroad company involved in writing to repair the crossing forthwith; the railroad company upon receipt of notice may request a conference on the condition of the crossing and the need, if any, for the repair of such crossing and such conference shall be held within ~~thirty~~*30* days after receipt of the ~~Commissioner's~~ *Chief Executive Officer for Transportation's* or the public road authority's notice. After the conference if the ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority is of the opinion that such repairs are required and the railroad is not willing to proceed promptly with such repairs, he or the public road authority may repair the same or cause it to be repaired and recover from the railroad company the actual cost of such work including any administration and engineering cost.

If no conference is requested by the railroad company within the ~~thirty~~*30*-day period, the ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority with advance notice may repair the crossing or cause it to be repaired and recover from the railroad company the actual cost of such work including any administration and engineering cost.

In any action under this section to recover the cost of the repair of any such crossing, the need for, and reasonableness of, the repairs may be put in issue.

Nothing herein shall be construed as placing a duty on the railroad company to construct or reconstruct any such crossing in the event any such crossing is relocated or the highway approaches thereto are widened or reconstructed.

§ 56-405.1. Agreements with Chief Executive Officer for Transportation or public road authority representative for maintenance and repair of public grade crossings.

Whenever the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or representative of the appropriate public road authority determines that it is in the best interest of the public to assist a railroad in its grade crossing maintenance and repair activities, he is authorized to enter into an agreement with the railroad company for the repair or maintenance of any crossing of a

railroad and a public highway or for the sale of materials to the railroad company for the repair and maintenance of any such crossing. Any such agreement shall provide for the railroad company to bear the cost of the repair or maintenance or material furnished and such other conditions as the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or representative of the appropriate public road authority deems necessary or advisable to protect the interest of the public.

§ 56-405.2. Construction and maintenance of crossbucks.

Every railroad company shall cause signal boards, hereinafter referred to as crossbucks, well supported by posts or otherwise and approved by the Department of Transportation at such heights as to be easily seen by travelers from both directions of the public highway, and not obstructing travel, containing in capital letters, at least five inches high, the inscription "railroad crossing," to be placed, and constantly maintained, at each public highway at or near, and on both sides of, each place where it is crossed by the railroad at the same level. The requirements of this section in localities that maintain their own streets may be waived at specific crossings on the petition of any such company to both the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ and the public road authority if both the ~~Commissioner~~ *Chief Executive Officer for Transportation* and the public road authority determine that any such crossing has or will have other adequate warning devices or that the placement of new crossbucks will not enhance the safety of the traveling public. Neither official action nor failure to act as hereinabove provided shall impair the power of the ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority to require crossbucks at specific public crossings should a subsequent determination of their need be made.

The cost of erecting crossbucks placed at a public highway for the first time or whenever the ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority determines an upgrade of the standards is required may be paid or supplemented from federal funds when available to the Department of Transportation for such purpose at the sole discretion of the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~. But the election of the ~~Commissioner~~ *Chief Executive Officer for Transportation* not to participate in such cost shall not relieve any company from the obligation of this section.

This section shall apply as to cities and towns in the case of new crossbucks beginning July 1, 1977.

§ 56-406.1. Proceedings for installation and maintenance of automatically operated gates, signals and other automatic crossing warning devices.

Railroads shall cooperate with the Virginia Department of Transportation and the Department of Rail and Public Transportation in furnishing information and technical assistance to enable the Commonwealth to develop plans and project priorities for the elimination of hazardous conditions at any crossing of a public highway which crosses at grade including, but not limited to, grade crossing elimination, reconstruction of existing grade crossings, and grade crossing improvements. The Commonwealth shall provide each locality a listing of grade crossing safety needs for its consideration. Information collected and analyses undertaken by the designated state agencies are subject to 23 U.S.C. § 409. A railroad shall not unilaterally select or determine the type of grade crossing warning system to be installed at any crossing of a public highway and railroad at grade. The railroad shall only install or upgrade a grade crossing warning system at any crossing of a public highway and railroad at grade pursuant to an agreement with the Virginia Department of Transportation or representative of the appropriate public road authority authorized to enter into such agreements. A railroad is not required but is permitted to upgrade, at its own expense, components of any public highway at grade warning system when such upgrade is incidental to a railroad improvement project relating to track, structures or train control systems.

When required by the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or representative of the appropriate public road authority, every railroad company shall cause a grade crossing warning device including flashing lights approved by the Department of Transportation at such heights as to be easily seen by travelers, and not obstructing travel, to be placed, and maintained at each public highway at or near each place where it is crossed by the railroad at the same level. Such warning device shall be automatically activated by the approaching train so as to be clearly discernible to travelers approaching the railroad crossing from each direction at a distance of ~~two-hundred~~*200* feet. Such warning devices shall be erected at the initiative of the appropriate public road authority only when required by ordinance or resolution adopted by the Commissioner or the appropriate public road authority thereof stating that such political subdivision will pay the full initial installation cost of such warning devices and that maintenance costs will be fixed as provided in § 56-406.2. A certified copy of such ordinance or resolution shall be delivered to such railroad company, and such railroad company shall forthwith install such warning devices at the full initial cost of such public road authority. The cost of such installation and maintenance of such warning devices may be shared by agreement between such railroad company and the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~or the appropriate public road authority, when initiating such installation. The railroad shall be responsible for

the continuing maintenance of the warning devices.

In the event that such ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the appropriate public road authority and the railroad company or companies involved are unable to agree on (i) the necessity for such grade crossing warning device, or (ii) the plans and specifications for and the method and manner of construction or operation thereof, or (iii) the share of the cost of construction, if any, to be borne by the railroad company or companies involved, then the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or representative of the appropriate public road authority, as the case may be, shall petition the State Corporation Commission setting forth the grade crossing warning devices desired and the plans and specifications for and the method and manner of construction and operation of the devices desired and the facts which, in the opinion of the petitioner, justify the requiring of the same. Copies of the petition and plans and specifications shall be forthwith served by the State Corporation Commission on the railroad company or companies involved. Within ~~twenty~~*20* days after service on it of such petition and plans and specifications, each such railroad company shall file an answer with the State Corporation Commission setting out its objections to the proposed project, and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity justifies or requires the proposed warning devices, (b) whether the plans and specifications or the method and manner of construction and operation be proper and appropriate, and (c) what share of the cost of the project, if any, to be borne by any railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing to such railroad company from providing such grade crossing warning devices, and either dismiss the proceeding as against such railroad company or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

§ 56-406.2. Proceeding for fixing cost of maintaining such warning devices at public grade crossings.

Whenever any automatically operated gate, signal or other automatic crossing warning device has been or may hereafter be installed at any highway, road or street grade crossing by any railroad company, the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the public road authority may agree with the railroad company involved as to the division of the cost of the future maintenance of any such device or devices. The basis for the division of costs shall be determined by the Department of Rail and Public Transportation utilizing the calculated average maintenance cost of all previous warning device maintenance performed and documented by all railroads operating in Virginia. In the event that the Commissioner or the public road authority and the railroad company involved are unable to agree upon the share of the cost of maintenance of any such device or devices to be borne by the railroad company, if any, then such railroad company may file a petition with the State Corporation Commission setting forth the crossing protection provided at such crossing, the terms of the contract and/or the conditions of the order of said Commission or the public road authority under which it was constructed and installed and the estimated future annual cost of maintaining the same. Copies of such petition shall forthwith be served by the State Corporation Commission upon the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~ or the public road authority who shall, within ~~twenty~~*20* days after service of such petition, file an answer thereto setting out reasons for declining to participate in the future cost of maintaining such warning device or devices as requested by the railroad company, and the Commission shall thereupon hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine what share of the cost of the future maintenance of such warning device or devices, if any, shall be borne by the railroad company and/or the Commonwealth Transportation Board or the public road authority, having regard to the benefits, if any, accruing to such railroad company from the continued maintenance of such protection of said public highway, road or street grade crossing, and either dismiss the proceeding or enter an order deciding and disposing of the matters therein submitted to its jurisdiction.

§ 56-458.1. Relocation of lines or works of certain public utilities acquired by Commonwealth Transportation Board.

Whenever a telegraph or telephone company, or any company mentioned in Chapter 10 (§ 56-232 et seq.) of this title, shall be required by the Commonwealth Transportation Board, or the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, to remove any part of its lines or works off of the right-of-way of a road now or hereafter included in either state highway system, or if any right-of-way, property or interest therein used and occupied by such company with its lines or works, or part thereof, is acquired by the Commonwealth Transportation Board, or the ~~Commonwealth~~ *Chief Executive Officer for* Transportation ~~Commissioner~~, for the uses of either such highway system, or if such company is notified by such Board or ~~Commissioner~~*Chief Executive Officer for Transportation* of the desire of such Board or ~~Commissioner~~ *Chief Executive Officer for Transportation* to acquire such right-of-way, property, or interest therein, used and occupied by such company with its lines or works, or part thereof, for the uses of either such highway system, such company may relocate its lines or

works, or the part or parts thereof affected. If unable to agree with the owner or owners for the right-of-way, or property, or interest therein for such relocation, such company, in addition to its other powers, shall have the right to acquire such rights-of-way, or property, or interest therein for the purpose of such relocation of its lines or works, or part or parts thereof in the manner provided by the laws of this Commonwealth for the exercise of the right of eminent domain.

§ 56-573.1. Procurement.

The Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to this chapter; however, a responsible public entity may enter into an interim or a comprehensive agreement only in accordance with guidelines adopted by it as follows:

1. A responsible public entity may enter into an interim or a comprehensive agreement in accordance with guidelines adopted by it that are consistent with procurement through "competitive sealed bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310.

2. A responsible public entity may enter into an interim or a comprehensive agreement in accordance with guidelines adopted by it that are consistent with the procurement of "other than professional services" through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310. Such responsible public entity shall not be required to select the proposal with the lowest price offer, but may consider price as one factor in evaluating the proposals received. Other factors that may be considered include (i) the proposed cost of the qualifying transportation facility; (ii) the general reputation, qualifications, industry experience, and financial capacity of the private entity; (iii) the proposed design, operation, and feasibility of the qualifying transportation facility; (iv) the eligibility of the facility for priority selection, review, and documentation timelines under the responsible public entity's guidelines; (v) local citizen and public entity comments; (vi) benefits to the public; (vii) the private entity's compliance with a minority business enterprise participation plan or good faith effort to comply with the goals of such plan; (viii) the private entity's plans to employ local contractors and residents; (ix) the safety record of the private entity; (x) the ability of the facility to address the needs identified in the appropriate state, regional or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency; and (xi) other criteria that the responsible public entity deems appropriate.

A responsible public entity shall proceed in accordance with the guidelines adopted by it pursuant to subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted by it pursuant to this subdivision is likely to be advantageous to the responsible public entity and the public, based on (i) the probable scope, complexity, or urgency of a project; (ii) risk sharing including guaranteed cost or completion guarantees, added value, or debt or equity investments proposed by the private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that would not otherwise be available. When the responsible public entity determines to proceed according to the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in writing. If a state agency is the responsible public entity, the approval of the ~~Secretary~~ ~~of~~*Chief Executive Officer for* Transportation shall be required as more specifically set forth in the guidelines before the comprehensive agreement is signed.

3. Interim or comprehensive agreements for maintenance or asset management services for a transportation facility that is a highway, bridge, tunnel, or overpass, and any amendment or change order thereto that increases the highway lane-miles receiving services under such an agreement, shall be procured in accordance with guidelines that are consistent with procurement through "competitive sealed bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310. Furthermore, such contracts shall be of a size and scope to encourage maximum competition and participation by agency prequalified contractors and otherwise qualified contractors.

4. The provisions of subdivision 3 shall not apply to maintenance or asset management services agreed to as part of the initial provisions of any interim or comprehensive agreement entered into for the original construction, reconstruction, or improvement of any highway pursuant to Chapter 22 (§ 56-556 et seq.) of Title 56 and shall not apply to any concession that, at a minimum, provides for (i) the construction, reconstruction, or improvement of any transportation facility or (ii) the operation and maintenance of any transportation facility with existing toll facilities.

5. Nothing in this section shall require that professional services be procured by any method other than competitive negotiation in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 63.2-611. Case management; support services; transitional support services.

A. The Commissioner, through the local departments, with such funds as appropriated, shall offer families participating in VIEW intensive case management services throughout the family's participation in VIEW. Case management services shall include initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individualized agreement of personal responsibility, and periodic reassessment of service needs and the agreement of

personal responsibility. It shall be the goal of the Department to have a statewide intensive case management ratio not higher than the statewide average ratio in Title IV-F of the Social Security Act Job Opportunities and Basic Skills Training Program State Plan as the ratio existed on July 1, 1995.

B. Local departments are authorized to provide services to VIEW families throughout the family's participation in VIEW subject to regulations adopted by the Board, including:

1. Child care for the children of participants if:

a. The participant is employed and child-care services are required to enable the continued employment of the participant;

b. Child-care services are required to enable a participant to receive job placement, job training or education services; or

c. The participant is otherwise eligible for child care pursuant to Board regulations.

2. Transportation that will enable parental employment or participation in services required by the agreement of personal responsibility.

3. Job counseling, education and training, and job search assistance consistent with the purposes of VIEW.

4. Medical assistance.

C. A participant whose TANF financial assistance is terminated, either voluntarily or involuntarily, shall receive the following services for up to twelve months after termination, if needed:

1. Assistance with child care if such assistance enables the individual to work;

2. Assistance with transportation, if such transportation enables the individual to work;

3. Medical assistance, including transitional medical assistance for families with a working parent who becomes ineligible for TANF financial assistance because of increased earnings according to policies of the Virginia Department of Medical Assistance Services; and

4. Financial assistance of $50 per month, if the participant is employed and is working at least 30 hours per week or more at the time of TANF closure and remains employed and continues to work at least 30 hours per week or more.

D. The Department or local departments may purchase or otherwise acquire motor vehicles from the centralized fleet of motor vehicles controlled by the ~~Commonwealth Transportation Commissioner~~ *Department of General Services* under Article 7 (§ 2.2-1173 et seq.) of Chapter 11 of Title 2.2 and sell or otherwise transfer such vehicles to TANF recipients or former recipients. Purchases, sales, and other transfers of vehicles under this subsection shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), or the provisions of §§ 2.2-1124, 2.2-1153, 2.2-1156, and 2.2-1177 relating to the sale, purchase, and transfer of surplus motor vehicles and other surplus state property.

E. Nothing in this section shall be construed or interpreted to create a cause of action or administrative claim based upon a right or entitlement to any specific services or an exemption or waiver from any provision of VIEW.

2. That it is the intent of the General Assembly, through the provisions of this act, to transfer all powers, duties, and responsibilities vested by any provision of the Code of Virginia in the Commonwealth Transportation Commissioner to the Chief Executive Officer for Transportation, who shall also serve and have all the powers, duties, and responsibilities of the Director of the Department of Aviation and the Director of the Department of Rail and Public Transportation. The term of office of persons occupying the position of Director of the Department of Aviation and the Director of the Department of Rail and Public Transportation prior to the effective date of this act shall expire on July 1, 2009. The Chief Executive Officer for Transportation shall have plenary powers to effect, to the greatest extent feasible, consolidation of operations, programs, and responsibilities into a single administrative entity. The Chief Executive Officer for Transportation shall be solely responsible and accountable to the Commonwealth Transportation Board, and the office of Secretary of Transportation is hereby abolished.

3. That the changes in composition of the Commonwealth Transportation Board shall not affect any member appointed to that body by the Governor prior to July 1, 2009. Those appointed prior to that date shall continue to serve until the end of the term to which they were appointed. Thereafter, their successors shall be chosen as provided in the amendments to § 33.1-1 of the Code of Virginia in the first enactment of this act.

4. That the Chief Executive Officer for Transportation shall make such legislative recommendations as he may deem necessary and proper to the 2010 Regular Session of the General Assembly to improve consolidation of the functions of the Department of Transportation, the Department of Rail and Public Transportation, and the Department of Aviation.

5. That Article 10 (§§ 2.2-228 and 2.2-229) of Chapter 2 of Title 2.2 of the Code of Virginia and § 5.1-2.3 of the Code of Virginia are repealed.