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SENATE BILL NO. 103

Offered January 13, 2010

Prefiled January 6, 2010

A BILL to amend and reenact §§ 2.2-200, 2.2-204, 2.2-211, 2.2-229, 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; and to repeal § 2.2-228 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.

Patrons—McDougle and Martin

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-200, 2.2-204, 2.2-211, 2.2-229, 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 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.

INTRODUCED

SB103

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

64 § 2.2-204. Position established; agencies for which responsible; additional duties.

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

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

77 § 2.2-211. Position established; agencies for which responsible; additional powers.

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

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

90 § 2.2-229. Office of Intermodal Planning and Investment of the Chief Executive Officer for
 91 Transportation.

92 There is hereby established the Office of Intermodal Planning and Investment of the ~~Secretary of~~
 93 *Chief Executive Officer for* Transportation, consisting of a director, appointed by the ~~Secretary of~~ *Chief*
 94 *Executive Officer for* Transportation, and such additional transportation professionals as the Secretary of
 95 Transportation shall determine. The goals of the Office are to provide solutions that link existing
 96 systems; promote the coordination of transportation investments and land use planning; reduce
 97 congestion; improve safety, mobility, and accessibility; and provide for greater travel options. It shall be
 98 the duty of the director of the office to advise the ~~Secretary~~ *Chief Executive Officer for Transportation*,
 99 ~~the Virginia Aviation Board~~, the Virginia Port Authority Board, and the Commonwealth Transportation
 100 Board on intermodal issues, generally.

101 The responsibilities of the Office shall be:

102 1. To identify transportation solutions to promote economic development and all transportation
 103 modes, intermodal connectivity, environmental quality, accessibility for people and freight, and
 104 transportation safety;

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

107 3. To coordinate and oversee studies of potential highway, transit, rail, and other improvements or
 108 strategies, to help address mobility and accessibility within corridors of statewide significance and
 109 regional networks, and promote commuter choice inclusion in the six-year improvement program;

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

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

116 6. To work with and coordinate actions of the agencies of the transportation Secretariat to assess
 117 freight movements and promote intermodal and multimodal solutions to address freight needs, including
 118 assessment of intermodal facilities;

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

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

124 9. To work with and coordinate actions of the agencies of the transportation Secretariat to implement
125 a comprehensive, multimodal transportation policy;

126 10. To develop quantifiable and achievable goals pursuant to § 33.1-23.03 and transportation and
127 land use performance measures and prepare an annual performance report on state and regional efforts.
128 The Office of Intermodal Planning and Investment shall work with applicable regional organizations to
129 develop such goals;

130 11. To identify and facilitate public and private partnerships to achieve the goals of state and
131 regional plans;

132 12. To provide technical assistance to local governments and regional entities to establish and
133 promote urban development areas pursuant to § 15.2-2223.1; and

134 13. To establish standards for the coordination of transportation investments and land use planning to
135 promote commuter choice and transportation system efficiency.

136 § 2.2-306. Secure Commonwealth Panel; membership; duties; compensation; staff.

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

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

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

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

165 § 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum;
166 compensation and expenses.

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

171 B. The Board shall consist of 18 members appointed as follows: nine nonlegislative citizen members
172 to be appointed by the Governor that consist of one agency director from one of the natural resources
173 agencies, one official from a state university, one elected official representing a local government in the
174 Commonwealth, one member of the Virginia Association of Surveyors, one elected official who serves
175 on a planning district commission, two representatives of utilities or transportation industries utilizing
176 geographic data, and two representatives of private businesses with expertise and experience in the
177 establishment, operation, and maintenance of geographic information systems; four members of the
178 House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the
179 Senate to be appointed by the Senate Committee on Rules; the Chief Information Officer, the
180 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~, and the Executive Director of
181 the Economic Development Partnership Authority or their designees who shall serve as ex officio,

182 voting members. Gubernatorial appointees may be nonresidents of the Commonwealth. All members of
 183 the Board appointed by the Governor shall be confirmed by each house of the General Assembly. The
 184 agency director and state university official appointed by the Governor may each designate a member of
 185 his organization as an alternate who may attend meetings in his place and be counted as a member of
 186 the Board for the purposes of a quorum.

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

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

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

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

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

208 § 5.1-1. Definitions.

209 When used in this title, unless expressly stated otherwise:

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

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

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

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

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

225 "Airman" means any individual, including the person in command, and any pilot, mechanic, or
 226 member of the crew, who engages in the navigation of aircraft while under way within Virginia
 227 airspace, and any individual who is directly in charge of the inspection, maintenance, overhauling or
 228 repair of aircraft, aircraft engines, propellers or accessories; and any individual who serves in the
 229 capacity of aircraft dispatcher.

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

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

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

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

243 "Department" means the Department of Aviation.

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

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

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

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

260 § 5.1-2.1. Virginia Aviation Board functions transferred to Commonwealth Transportation Board;
261 membership; terms; Chairman.

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

275 B. Whenever the Board shall acquire ownership or jurisdiction over an airport or airports previously
276 operated by an agency of the United States, there may be a member appointed to the Board by the
277 President of the United States. Such member shall have the powers and duties of other members of the
278 Board only with respect to the airport or airports so acquired. C. There may be a member of the Board
279 from any county or city wherein the Board acquires or constructs an airport, to be elected by the
280 governing body of the county or city and to serve at its pleasure. Such member shall have the powers
281 and duties of other members of the Board only with respect to such airport. If the Board acquires an
282 airport which was constructed by one political subdivision but is located in another, the political
283 subdivision which constructed the airport, rather than the political subdivision in which it is located,
284 shall be represented on the Board.

285 § 5.1-7. Licensing of airports and landing areas.

286 Except as provided in § 5.1-7.2, every person, before operating an airport or landing area or adding
287 or extending a runway, shall first secure from the Department a license. The application therefor shall be
288 made on the form prescribed and furnished by the Department and shall be accompanied by a fee not
289 exceeding \$100.

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

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

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

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

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

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

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

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

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

338 Any party aggrieved by the granting or refusal to grant any such license shall have a right of appeal
339 to the circuit court of the jurisdiction where the airport or landing area is to be located, which appeal
340 shall be filed in accordance with the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title
341 2.2.

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

348 § 5.1-9.9. Same; duration of permits; suspension or revocation; penalty.

349 A. Contract carrier permits issued pursuant to this chapter shall be effective from the date of issuance
350 and shall remain in effect only so long as the contract carrier's insurance, underwritten bond or
351 certificate of insurance required by § 5.1-9.5 remains in full force and effect.

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

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

357 § 5.1-30.9. Report to the General Assembly and Chief Executive Officer for Transportation.

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

361 § 5.1-39. Use, disposal and termination of rights acquired.

362 No easements, rights or privileges acquired under the terms of this article by any county, city or
363 town shall be employed or disposed of except to accomplish the purposes for which they were originally
364 acquired; except that when such easements, rights, or privileges have been transferred to the ~~Virginia~~
365 ~~Aviation~~ Board, they may be held, used, and disposed of in accordance with §§ 5.1-2.2 and 5.1-2.2:1.
366 Upon the abandonment of any airport or landing field acquired pursuant to this article all easements,

367 rights and privileges which shall have been so acquired over or with respect to adjacent lands shall
 368 thereupon terminate and revert back to the person from whom the easement, right or privilege was
 369 obtained or his successor in interest.

370 § 10.1-1425.8. Department of Transportation; authority and duty.

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

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

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

385 § 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

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

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

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

406 D. In the prosecution for a violation of any local ordinance adopted as provided in this section,
 407 prima facie evidence that the vehicle described in the summons issued pursuant to this section was
 408 operated in violation of such ordinance, together with proof that the defendant was at the time of such
 409 violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption
 410 that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such
 411 presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by
 412 regular mail with the clerk of the general district court that he was not the operator of the vehicle at the
 413 time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the
 414 vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy
 415 of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of
 416 the alleged violation of this section, is presented, prior to the return date established on the summons
 417 issued pursuant to this section, to the court adjudicating the alleged violation.

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

426 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator
 427 and shall not be made part of the operating record of the person upon whom such liability is imposed,

428 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No
429 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

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

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

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

471 J. When selecting potential intersections for a traffic light signal violation monitoring system, a
472 locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light
473 violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty
474 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the
475 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the
476 violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall
477 submit a list of intersections to the Virginia Department of Transportation for final approval.

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

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

489 M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light

490 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light
 491 signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were
 492 in place at the time of the commission of the traffic light signal violation.

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

496 § 15.2-2030. Localities may sell or lease airspace over public streets, public rights-of-way, etc., under
 497 certain conditions.

498 Notwithstanding the provisions of § 15.2-2000 A, subject to the provisions of Article VII, Section 9
 499 of the Constitution of Virginia when applicable, any locality may by ordinance authorize the sale or
 500 lease of the airspace over or under any public street, lane, alley or other public right-of-way in such
 501 locality owned by it in fee simple; provided, that any building, structure or appurtenance thereto,
 502 constructed over any such street, lane, alley or other public right-of-way shall have a minimum clearance
 503 of sixteen feet six inches and providing further that nothing herein shall be construed to relieve any such
 504 grantee or lessee of such airspace of the liability for negligence on their part. No such ordinance shall
 505 be adopted until the governing body has held a public hearing thereon after public notice as provided in
 506 § 15.2-2204. In addition, in those public rights-of-way in which the Commonwealth has a prescriptive
 507 easement for maintenance and public travel, the airspace shall be conveyed or leased only with the
 508 consent, in writing, of the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*.

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

511 § 15.2-2222.1. Coordination of state and local transportation planning.

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

524 B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286,
 525 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of
 526 Transportation within 10 business days of receipt thereof if the proposal will substantially affect
 527 transportation on state-controlled highways. Such application shall include a traffic impact statement if
 528 required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days
 529 of its receipt of such traffic impact statement, the Department shall either (i) provide written comment
 530 on the proposed rezoning to the locality, or (ii) schedule a meeting, to be held within 60 days of its
 531 receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to
 532 discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's
 533 comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and
 534 guidelines of the Department, engineering and design considerations, any adopted regional or statewide
 535 plans and short and long term traffic impacts on and off site. The Department shall complete its initial
 536 review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives
 537 the rezoning proposal from the locality.

538 C. When a locality receives a subdivision plat pursuant to § 15.2-2258 or 15.2-2260, or a site plan or
 539 plan of development pursuant to subdivision A 8 of § 15.2-2286, the locality shall submit such plat or
 540 plan to the Department of Transportation in accordance with § 15.2-2260 within 10 business days if the
 541 plat or plan substantially affects transportation on state-controlled highways as defined by regulations
 542 promulgated by the Department. Such plat or plan shall include supplemental traffic analysis if required
 543 by local ordinance or resolution or pursuant to regulations promulgated by the Department. Within 30
 544 days of its receipt of such plat or plan, the Department shall either (i) provide written comment on the
 545 plat or plan, or (ii) schedule a meeting, to be held within 60 days of the Department's receipt of the plat
 546 or plan, with members of the local planning commission or other agent of the locality to discuss
 547 potential modifications to the plat or plan to address any concerns or deficiencies. The Department's
 548 comments on the plat or plan shall be based upon the comprehensive plan, regulations or guidelines of
 549 the Department, engineering and design considerations, any adopted statewide or regional plans and
 550 short and long term traffic impacts on and off site. The Department shall complete its final review

551 within 90 days after it receives such plat or plan from the locality. The submission of the application to
552 the Department shall toll all times for local review set out in this chapter until the locality has received
553 the Department's final comments.

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

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

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

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

567 § 15.2-2272. Vacation of plat after sale of lot.

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

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

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

593 Roads within the secondary system of highways may be vacated under either of the preceding
594 methods and the action will constitute abandonment of the road, provided the land shown on the plat or
595 part thereof to be vacated has been the subject of a rezoning or special exception application approved
596 following public hearings required by § 15.2-2204 and provided the ~~Commonwealth~~ *Chief Executive*
597 *Officer for Transportation Commissioner* or his agent is notified in writing prior to the public hearing,
598 and provided further that the vacation is necessary in order to implement a proffered condition accepted
599 by the governing body pursuant to §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of
600 special exception approval. All abandonments of roads within the secondary system of highways sought
601 to be effected according to either of the preceding methods before July 1, 1994, are hereby validated,
602 notwithstanding any defects or deficiencies in the proceeding; however, property rights which have
603 vested subsequent to the attempted vacation are not impaired by such validation. The manner of
604 reversion shall not be affected by this section.

605 § 15.2-3530. Continuation of services of Department of Transportation after consolidation.

606 When a county and city consolidate into a city, or a combination of counties and a city or cities
607 consolidate into a city, or when any county and all of the incorporated towns located entirely therein are
608 consolidated into a city or cities, the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
609 *Commissioner* shall continue the full services of the Department of Transportation in those areas which
610 were formerly a county or counties in the same manner and to the same extent such services were
611 rendered prior to such consolidation. Funds for the maintenance, construction and reconstruction of
612 streets within the areas formerly a county or counties shall continue to be allocated as if such areas were

613 still in the county or counties, and such city or cities shall not receive funds for maintenance,
614 construction or reconstruction of streets in those areas. In those areas where the Department of
615 Transportation provides the above services, the governing body of such city or cities, as the case may
616 be, shall have control over the streets and highways to the same extent as was formerly vested in the
617 governing body of the county or counties.

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

624 § 15.2-3534. Optional provisions of consolidation agreement.

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

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

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

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

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

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

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

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

655 8. In the event of the establishment of such shires or boroughs, it shall be the duty of the
656 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ and the Director of the
657 Department of Historic Resources to have suitable monuments or markers erected indicating the limits of
658 such geographical subdivisions and setting forth the history of each.

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

663 b. In the event of the establishment of a consolidated city, the constitutional officers of the
664 consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective
665 date of consolidation; the selection of each constitutional officer for the consolidated city shall be made
666 by agreement between those persons holding such respective offices, and the other or others, as the case
667 may be, shall become assistants or chief deputies, upon filing of a certification of such agreement in a
668 circuit court and approval by the court; in the event no agreement is reached or no certification is filed
669 on or before a date stated in the consolidation agreement, the circuit court shall designate one officer as
670 principal and the other or others, as the case may be, as assistants or chief deputies; and in the event of
671 a vacancy in the office of assistant or chief deputy thereby created during such term, the position shall
672 be abolished. Each such officer shall continue in office, whether as the principal officer or as chief
673 deputy or assistant, until January 1 following the next regularly scheduled election pursuant to

674 § 24.2-217, whether or not the term to which such officer was elected may have expired prior to that
675 date. When the effective date of the consolidation plan is the same as the end of the term of one or
676 more existing constitutional officers for the consolidating jurisdictions, an election shall be held to elect
677 such constitutional officers for the consolidating jurisdictions for a new term to begin on the effective
678 date of consolidation. Such newly elected officers may or may not become the principal constitutional
679 officers of the consolidated city under this provision.

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

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

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

706 Any agreement between any localities to form a consolidated city when adopted and approved as
707 provided herein, together with the charter, shall be the form of the consolidated city. The governing
708 body of the consolidated city shall have the power to make amendments to the consolidation agreement
709 not contrary to general law. No such amendments shall become effective until such amendments have
710 been approved by the General Assembly in accordance with the procedures established by Chapter 2
711 (§ 15.2-200 et seq.).

712 12. Any agreement between any localities to form a consolidated county may likewise incorporate
713 provisions of any charter of any such localities proposing to consolidate and also may include the
714 provisions of any of the optional forms of county government set forth in this title. In any form of
715 government approved by the voters hereunder, irrespective of any other provisions of law, the initial
716 membership of the governing body shall be as set forth in such consolidation agreement. Such
717 agreement when adopted and approved as provided herein shall be the form of the consolidated county,
718 and the provisions of the first paragraph of subdivision 11 above shall be applicable, mutatis mutandis.
719 The governing body of the consolidated county shall have the power to make amendments to the
720 consolidation agreement not contrary to general law. No such amendments, excluding membership of the
721 governing body, shall become effective until such amendments have been approved by the General
722 Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

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

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

735 15. The agreement between a county and the incorporated towns located entirely therein consolidated

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

754 16. In the event of consolidation of a county and a city into a single county incorporating a tier-city
 755 therein, any rights provided to counties, cities and towns in Chapters 32 (§ 15.2-3200 et seq.), 33
 756 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), and 39 (§ 15.2-3900 et seq.)
 757 may be modified or waived in whole or in part, as set forth in the consolidation agreement, provided
 758 that the modification or waiver does not conflict with the Constitution of Virginia and provided that
 759 such provision in the consolidation agreement is approved pursuant to the provisions of Chapter 34
 760 (§ 15.2-3400 et seq.) prior to the effective date of consolidation.

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

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

776 19. In the event of consolidation of such counties and cities into a single city which completely
 777 surrounds another city, the agreement may provide for the subsequent unilateral consolidation and
 778 conversion of the surrounded city to a township within the surrounding consolidated city at any time.
 779 The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the
 780 question of whether such city shall convert to a township. The township may, in the discretion of its
 781 council, continue to be called a city and may formally be referred to as city, a Virginia township.
 782 Such township shall have no right to become an independent city, nor to annex or exercise any
 783 extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and
 784 immunities granted towns. The consolidated city's legal relationship with such township shall be
 785 governed by the same laws that govern county-town relationships, except as modified herein.

786 § 15.2-4832. Composition of Authority; membership; terms.

787 The Authority shall consist of 17 members as follows:

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

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

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

797 on Finance and the Senate Committee on Transportation; and

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

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

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

813 The Authority shall appoint the chairman and vice-chairman.

814 § 15.2-5114. Powers of authority.

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

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

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

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

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

826 5. Sue and be sued;

827 6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain
828 any system or any combination of systems within, outside, or partly within and partly outside one or
829 more of the localities which created the authority, or which after February 27, 1962, joined such
830 authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land
831 or water rights in connection therewith, within, outside, or partly within and partly outside one or more
832 of the localities which created the authority, or which after February 27, 1962, joined such authority;
833 and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed,
834 or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions
835 of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and
836 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same
837 procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any
838 political subdivision shall be acquired by an authority by the exercise of the power of eminent domain
839 without the consent of the governing body of such political subdivision. Except as otherwise provided in
840 this section, each authority is hereby vested with the same authority to exercise the power of eminent
841 domain as is vested in the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*. In
842 acquiring personal property or any interest, right, or estate therein by purchase, lease as lessee, or
843 installment purchase contract, an authority may grant security interests in such personal property or any
844 interest, right, or estate therein;

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

847 8. Combine any systems as a single system for the purpose of operation and financing;

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

851 10. Fix, charge and collect rates, fees and charges for the use of, or for the services furnished by, or
852 for the benefit derived from, any facilities or systems owned, operated or financed by the authority.
853 Such rates, fees, rents and charges shall be charged to and collected by such persons and in such
854 manner as the authority may determine from (i) any person contracting for any such services and/or (ii)
855 the owners or tenants who own, use or occupy any real estate or improvements that are served by, or
856 benefit from, any such facilities or systems, and, if authorized by the authority, customers of facilities
857 within a community development authority district. Water and sewer connection fees established by any
858 authority shall be fair and reasonable, and each authority may establish and offer rate incentives

859 designed to encourage the use of green roofs. If established, the incentives shall be based on the
860 percentage of stormwater runoff reduction the green roof provides. Such fees and incentives shall be
861 reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to
862 be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in
863 conflict with any of the foregoing provisions;

864 11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or
865 any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may
866 provide for or relate to the furnishing of services and facilities of any system of the authority or in
867 connection with the services and facilities rendered by any like system owned or controlled by the
868 federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency
869 or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to
870 the right of an authority, created for such purpose, to receive and use and dispose of all or any portion
871 of the refuse generated or collected by or within the jurisdiction or under the control of any one or more
872 of them. In the implementation of any such contract, an authority may exercise the powers set forth in
873 §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with
874 private entities includes the authority to enter into public-private partnerships for the establishment and
875 operation of systems, including the authority to contract for, and contract to provide, meter reading,
876 billing and collections, leak detection, meter replacement and any related customer service functions;

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

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

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

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

893 16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights,
894 including any patent, trademark, or copyright, relating to the business of the authority.
895 § 15.2-5146. Use of state land.

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

901 B. In addition to the provisions of subsection A, the Governor is authorized, at the request of an
902 authority created pursuant to § 15.2-5102 and in a form approved by the Attorney General, to disclaim
903 any and all rights, title, and interest of the Commonwealth in and to lands used pursuant to subsection A
904 if he finds (i) there is no greater public need or purpose than such use or (ii) that public use and
905 necessity have been established pursuant to subsection B of § 15.2-1903. Such disclaimer shall be filed
906 with the appropriate court and shall have the legal force and effect of disclaiming, releasing, and
907 renouncing all of the right, title, and interest of the Commonwealth in and to such lands.

908 § 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

909 A. Whenever a school board determines that it has no use for some of its real property, the school
910 board may sell such property and may retain all or a portion of the proceeds of such sale upon approval
911 of the local governing body and after the school board has held a public hearing on such sale and
912 retention of proceeds, or may convey the title to such real property to the county or city or town
913 comprising the school division or, if the school division is composed of more than one county or city,
914 to the county or city in which the property is located. To convey the title, the school board shall adopt a
915 resolution that such real property is surplus and shall record such resolution along with the deed to the
916 property with the clerk of the circuit court for the county or city where such property is located. Upon
917 the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

918 If a school board sells surplus real property, a capital improvement fund shall be established by such
919 school board and the proceeds of such sale retained by the school board shall accrue to such capital

920 improvement fund. The capital improvement fund shall only be used for new school construction, school
921 renovation, and major school maintenance projects.

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

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

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

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

942 § 25.1-108. Offer of repurchase to former owner.

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

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

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

965 § 25.1-109. Condemnation of lands for compensatory mitigation of wetlands.

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

973 § 25.1-209. Notice of filing of petition.

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

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

982 compensation.

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

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

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

995 § 25.1-229. Selection of jurors.

996 A. Except as otherwise provided in this section, the provisions of Chapter 11 (§ 8.01-336 et seq.) of
997 Title 8.01 shall apply to the selection of condemnation juries mutatis mutandis. While preserving the
998 random selection process set forth in § 8.01-345, the jury commissioner shall determine the freeholder
999 status of individuals randomly selected by reference to tax rolls or other reliable data the judge of the
1000 circuit court deems appropriate.

1001 B. All of the acting jurors and all of the names drawn for alternate jurors shall be freeholders of
1002 property within the jurisdiction. On the day set for trial, jurors who appear shall be called to be sworn
1003 on their voir dire until a disinterested and impartial panel is obtained. A juror may be stricken for cause.
1004 From the impartial panel the judge shall randomly select 13 jurors. From the panel of 13 jurors each
1005 party shall have four preemptory strikes. The court may appoint alternate jurors. Five persons from a
1006 panel of not fewer than 13 jurors shall constitute a jury in a condemnation case. If fewer than seven
1007 jurors remain before the court prior to the exercise of preemptory strikes, the trial may proceed and be
1008 heard by less than five jurors provided the parties agree. However, no trial shall proceed with fewer than
1009 three jurors.

1010 C. The conclusion of the jurors need not be unanimous, and a majority of the jurors may act in the
1011 name of the jury.

1012 D. In condemnation proceedings instituted by the ~~Commonwealth~~ *Chief Executive Officer for*
1013 *Transportation Commissioner*, a person owning structures or improvements for which an outdoor
1014 advertising permit has been issued by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
1015 *Commissioner* pursuant to § 33.1-360 shall be deemed to be an "owner" for purposes of this section.

1016 § 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation
1017 Board; number and terms of members; removal from office; vacancies.

1018 The State Highway and Transportation Board, formerly known as the State Highway and
1019 Transportation Commission, is continued and shall hereafter be known as the Commonwealth
1020 Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the
1021 State Highway and Transportation Board or the State Highway and Transportation Commission, it shall
1022 mean the Commonwealth Transportation Board.

1023 The Board shall consist of ~~seventeen members: the Secretary of Transportation, the Commonwealth~~
1024 ~~Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and~~
1025 ~~fourteen~~ 14 citizen members. ~~The citizen~~ *Except for those members elected by the General Assembly as*
1026 *provided in § 33.1-2, members shall be (i) appointed by the Governor as provided in § 33.1-2, (ii)*
1027 *subject to confirmation by the General Assembly, and (iii) removable from office during their respective*
1028 *terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years*
1029 *commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The*
1030 *initial terms of the members appointed in January, 1987, shall commence when appointed and shall be*
1031 *for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be*
1032 *filled by appointment by the Governor, for those members appointed by the Governor, and by election*
1033 *by the Joint Committee on Rules, for those members elected by the General Assembly. All appointments*
1034 *or elections to fill vacancies shall be for the unexpired term and shall be effective until thirty 30 days*
1035 *after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder*
1036 *of the term. No person shall be eligible to serve more than two successive terms of four years; other*
1037 *than the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director*
1038 *of the Department of Rail and Public Transportation. A person heretofore or hereafter appointed by the*
1039 *Governor or elected by the General Assembly to fill a vacancy may serve two additional successive*
1040 *terms.*

1041 The ~~Secretary of Transportation~~ shall serve as ~~Chairman~~ of the Board shall annually elect a
1042 chairman and a vice-chairman from its membership. The ~~Secretary~~ chairman and vice-chairman shall

1043 have *full* voting privileges only in the event of a tie. The Commonwealth Transportation Commissioner
 1044 shall serve as ~~Vice Chairman of the Board~~. The Commissioner shall have voting privileges only in the
 1045 event of a tie when he is presiding during the absence of the Chairman. The Director of the Department
 1046 of Rail and Public Transportation shall serve without a vote.

1047 Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway
 1048 and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State
 1049 Highway Commissioner," or "State Highway and Transportation Commissioner," shall mean or
 1050 "Commonwealth Transportation Commissioner" shall mean *Chief Executive Officer for Transportation*;
 1051 and all references to "Department of Highways and Transportation" shall refer to the Department of
 1052 Transportation.

1053 § 33.1-2. Residence requirements; statewide interest.

1054 Of such Board, one member shall be a resident of the territory now included in the Bristol
 1055 construction district, one in the Salem construction district, one in the Lynchburg construction district,
 1056 one in the Staunton construction district, one in the Culpeper construction district, one in the
 1057 Fredericksburg construction district, one in the Richmond construction district, one in the Hampton
 1058 Roads construction district and one in the Northern Virginia construction district. *The foregoing*
 1059 *members of the Board shall be elected by a majority vote of the members present and voting in both*
 1060 *houses of the General Assembly.* The remaining ~~five~~ members shall be appointed from the
 1061 Commonwealth at large, but at least ~~two~~ *one* shall reside in a standard metropolitan statistical ~~areas~~ *area*
 1062 and be designated as *an* urban at-large ~~members~~ *member*, and at least ~~two~~ *one* shall reside outside
 1063 standard metropolitan statistical areas and be designated as *a* rural at-large ~~members~~ *member*. The
 1064 at-large members shall be appointed to represent rural and urban transportation needs and be mindful of
 1065 the concerns of seaports and seaport users, airports and airport users, railways and railway users, and
 1066 mass transit and mass transit users. Each member so appointed shall be mindful of the best interest of
 1067 the Commonwealth at large primarily instead of those of the district from which chosen or of the
 1068 transportation interest represented.

1069 *Board members elected by the General Assembly shall not be removable by the Governor, but may*
 1070 *be removed from office only by a majority vote of the members present and voting in both houses of the*
 1071 *General Assembly.*

1072 § 33.1-3. election of Chairman; Chief Executive Officer for Transportation.

1073 ~~The Chairman of the Commonwealth Transportation Board shall be the Secretary of Transportation.~~

1074 ~~The Chief Executive Officer for Transportation shall serve as~~ Commonwealth Transportation
 1075 Commissioner, hereinafter in this title sometimes called "the Commissioner," *and* shall be the chief
 1076 executive officer of the Department of Transportation. ~~The Commissioner may, at the time of his~~
 1077 ~~appointment, be a nonresident Chief Executive Officer for Transportation shall be elected for a term of~~
 1078 ~~four years by a majority vote of the Commonwealth Transportation Board, shall be a resident of~~
 1079 ~~Virginia, and shall be an experienced administrator, able to direct and guide the Department in the~~
 1080 ~~establishment and achievement of the Commonwealth's long-range highway and other transportation~~
 1081 ~~objectives and shall be appointed at large.~~

1082 The Commissioner shall devote his entire time and attention to his duties as chief executive officer
 1083 of the Department and shall receive such compensation as shall be fixed by the Commonwealth
 1084 Transportation Board, ~~subject to the approval of the Governor.~~ He shall also be reimbursed for his actual
 1085 travel expenses while engaged in the discharge of his duties.

1086 In the event of a vacancy due to the death, temporary disability, retirement, resignation or removal of
 1087 the Commissioner, ~~the Governor Board may appoint~~ *elect* and thereafter remove at *his* ~~its~~ pleasure an
 1088 "Acting ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~" until such time as the
 1089 vacancy may be filled as provided in § 33.1-1. Such "Acting ~~Commonwealth Chief Executive for~~
 1090 ~~Transportation Commissioner~~" shall have all powers and perform all duties of the Commissioner as
 1091 provided by law, and shall receive such compensation as may be fixed by the ~~Governor Board~~. In the
 1092 event of the temporary disability, for any reason, of the Commissioner, full effect shall be given to the
 1093 provisions of § 2.2-605.

1094 § 33.1-221.1:1.1. Rail Enhancement Fund.

1095 A. The General Assembly declares it to be in the public interest that railway preservation and
 1096 development of railway transportation facilities are an important element of a balanced transportation
 1097 system of the Commonwealth for freight and passengers and further declares it to be in the public
 1098 interest that the retention, maintenance, improvement and development of freight and passenger railways
 1099 are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in
 1100 national and world markets, and there is hereby created in the state treasury a special nonreverting fund
 1101 to be known as the Rail Enhancement Fund which shall be considered a special fund within the
 1102 Transportation Trust Fund, hereafter referred to as "the Fund."

1103 B. The Fund shall be established on the books of the Comptroller, and shall consist of dedications
 1104 pursuant to § 58.1-2425 and such funds from other sources as may be set forth in the appropriation act

1105 and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund
 1106 shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest
 1107 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.
 1108 Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements
 1109 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
 1110 request signed by the Director of the Virginia Department of Rail and Public Transportation or the
 1111 Director's designee.

1112 C. The Director of the Department of Rail and Public Transportation shall administer and expend or
 1113 commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring,
 1114 leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or
 1115 assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling
 1116 stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the
 1117 Board shall have determined that such acquisition, lease, and/or improvement is for the common good of
 1118 a region of the Commonwealth or the Commonwealth as a whole. Prior to recommending an allocation
 1119 of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and
 1120 Public Transportation shall consult with and obtain the advice and recommendations of the Rail
 1121 Advisory Commonwealth Transportation Board established pursuant to ~~§ 33.1-391.3-1~~ § 33.1-1.

1122 D. Projects undertaken pursuant to this section shall be limited to those the Commonwealth
 1123 Transportation Board shall have determined will result in public benefits to the Commonwealth or to a
 1124 region of the Commonwealth that are equal to or greater than the investment of funds under this section.
 1125 Such public benefits shall include, but not be limited to, the impact of the project on traffic congestion,
 1126 environmental quality, and whenever possible, give due consideration to passenger rail capacity on
 1127 corridors identified by the Commonwealth Transportation Board that have existing or proposed
 1128 passenger rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching
 1129 contribution from a private source, which may include a railroad, a regional authority, or a local
 1130 government source, or a combination of such sources.

1131 § 33.1-221.1:8. Transportation Partnership Opportunity Fund.

1132 A. There is created the Transportation Partnership Opportunity Fund (the Fund) to be used by the
 1133 Governor to encourage the development of transportation projects through design-build pursuant to
 1134 § 33.1-12 (b), the Public-Private Transportation Act (§ 56-556 et seq.) and to provide funds to address
 1135 the transportation aspects of economic development opportunities. The Fund shall consist of any funds
 1136 appropriated to it by the general appropriation act and revenue from any other source, public or private.
 1137 The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at
 1138 the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and
 1139 dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the
 1140 chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate
 1141 Committees on Finance and Transportation as funds are awarded in accordance with this section.

1142 B. The Fund shall be a component of the Commonwealth Transportation Fund but not a component
 1143 or subcomponent of the Transportation Trust Fund or the Highway Maintenance and Operating Fund.
 1144 Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the
 1145 Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and
 1146 Operating Fund shall not apply to the Fund.

1147 C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other
 1148 financing tools and equity contributions to (i) an agency or political subdivision of the Commonwealth
 1149 or (ii) a private entity or operator which has submitted a proposal or signed a comprehensive agreement
 1150 to develop a transportation facility pursuant to § 56-556 et seq. Loans shall be approved by the
 1151 Governor and made in accordance with procedures established by the Commonwealth Transportation
 1152 Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund.
 1153 The Governor may establish the duration of any loan, but such term shall not exceed seven years. The
 1154 Virginia Department of Transportation shall be responsible for monitoring repayment of such loans and
 1155 reporting the receivables to the Comptroller as required.

1156 D. Grants or revolving loans may be used for transportation capacity development on and off site;
 1157 road, rail, mass transit, or other transportation access costs beyond the funding capability of existing
 1158 programs; studies of transportation projects including but not limited to environmental analysis,
 1159 geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic
 1160 analysis, toll sensitivity studies, financial analysis, or anything else permitted by law. Funds may be
 1161 used for any transportation project or any transportation facility. Any transportation infrastructure
 1162 completed with moneys from the Fund shall not become private property, and the results of any studies
 1163 or analysis completed as a result of a grant or loan from the Fund shall be property of the
 1164 Commonwealth.

1165 E. The Commonwealth Transportation Board, ~~in consultation with the Secretary of Transportation~~

1166 and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in
1167 awarding grants or making loans from the Fund; however, no grant shall exceed \$5 million and no loan
1168 shall exceed \$30 million. No grant or loan shall be awarded until the Governor has provided copies of the
1169 guidelines and criteria to the chairmen of the House Committees on Appropriations, Finance, and
1170 Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria
1171 shall include provisions including, but not limited to, the number of jobs and amounts of investment that
1172 must be committed in the event moneys are being used for an economic development project, a
1173 statement of how the studies and analysis to be completed using moneys from the Fund will advance the
1174 development of a transportation facility, a process for the application for and review of grant and loan
1175 requests, a timeframe for completion of any work, the comparative benefit resulting from the
1176 development of a transportation project, assessment of the ability of the recipient to repay any loan
1177 funds, and other criteria as necessary to support the timely development of transportation projects. The
1178 criteria shall also include incentives to encourage matching funds from any other local, federal, or
1179 private source.

1180 F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall
1181 provide a report to the chairmen of the House Committees on Appropriations, Finance and
1182 Transportation and the Senate Committees on Finance and Transportation which shall include, but is not
1183 limited to, the following information: the location (county, city, or town) of the project; the amount of
1184 the grant or loan made or committed from the Fund and the purpose for which it will be used; the
1185 number of jobs created or projected to be created and the amount of a company's investment in the
1186 Commonwealth if the project is part of an economic development opportunity.

1187 G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed
1188 the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond
1189 the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and
1190 reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the
1191 Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing
1192 appropriation act unless the funds are currently available in the Fund.

1193 § 33.1-351. Policy; definitions.

1194 In order to promote the safety, convenience, and enjoyment of travel on and protection of the public
1195 investment in highways within this Commonwealth, to attract tourists and promote the prosperity,
1196 economic well-being, and general welfare of the Commonwealth, and to preserve and enhance the
1197 natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly
1198 declares it to be the policy of the Commonwealth that the erection and maintenance of outdoor
1199 advertising in areas adjacent to the rights-of-way of the highways within the Commonwealth shall be
1200 regulated in accordance with the terms of this article and regulations promulgated by the Commonwealth
1201 Transportation Board pursuant thereto.

1202 The following terms, wherever used or referred to in this article, shall have the following meanings
1203 unless a different meaning clearly appears from the context:

1204 "Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign, or
1205 similar device which is posted or displayed outdoors on real property and is intended to invite or to
1206 draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or
1207 personal property, business, services, entertainment, or amusement manufactured, produced, bought, sold,
1208 conducted, furnished, or dealt in by any person; the term shall also include any part of an advertisement
1209 recognizable as such.

1210 "Advertising structure" means any rigid or semirigid material, with or without any advertisement
1211 displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the
1212 purpose of furnishing a background or base or support upon which an advertisement may be posted or
1213 displayed.

1214 "Business of outdoor advertising" means the erection, use or maintenance of advertising structures or
1215 the posting or display of outdoor advertisements by any person who receives profit gained from rentals
1216 or any other compensation from any other person for the use or maintenance of such advertising
1217 structures or the posting or display of such advertisements, except reasonable compensation for materials
1218 and labor used or furnished in the actual erection of advertising structures or the actual posting of
1219 advertisements. The business of outdoor advertising shall not include the leasing or rental of advertising
1220 structures or advertisements used to advertise products, services, or entertainment sold or provided on
1221 the premises where the advertising structures or advertisement is located.

1222 "Centerline of the highway" means a line equidistant from the edges of the median separating the
1223 main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided
1224 highway.

1225 "Certification Acceptance Program" means a program which will allow any person, firm, or
1226 corporation owning five or more signs, advertisements, or outdoor advertising structures within a
1227 municipality to inspect their own signs, advertisements, or outdoor advertising structures two times

1228 during each calendar year, with inspections at least four to six months apart, and certify to the
 1229 Commonwealth Transportation Commissioner that the inspections have been performed and that their
 1230 outdoor advertising structures meet all applicable laws, rules, and regulations in lieu of paying an annual
 1231 permit fee as required in §§ 33.1-360, 33.1-361, and 33.1-362. The Commonwealth Transportation
 1232 Commissioner may, after a hearing, decertify any person, firm, or corporation that fails to perform the
 1233 required inspections annually or whose sign, advertisement, or outdoor advertising structures are found
 1234 in violation of any federal, state or local law, rule, or regulation and shall collect all permit fees for the
 1235 year the decertification occurs and all subsequent years if the Commissioner finds that the violation has
 1236 been committed.

1237 "Distance from edge of a right-of-way" shall be the horizontal distance measured along a line normal
 1238 or perpendicular to the centerline of the highway.

1239 "Federal-aid primary highway" means any highway within that portion of the State Highway System
 1240 as established and maintained under Article 2 (§ 33.1-25 et seq.) of Chapter 1 of Title 33.1, including
 1241 extensions of such system within municipalities, which ~~has been~~ was approved by the Secretary of
 1242 Transportation pursuant to subsection (b) of § 103 of Title 23, United States Code, as that system
 1243 existed on June 1, 1991.

1244 "Highway" means every way or place of whatever nature open to the use of the public for purposes
 1245 of vehicular travel in this Commonwealth.

1246 "Historic place, museum or shrine" includes only places that are maintained wholly at public expense
 1247 or by a nonprofit organization.

1248 "Information center" means an area or site established and maintained at rest areas for the purpose of
 1249 informing the public of places of interest within the Commonwealth and providing such other
 1250 information as the Commonwealth may consider desirable.

1251 "Interchange" means a grade separated intersection with one or more turning roadways for travel
 1252 between intersection legs, or an intersection at grade, where two or more highways join or cross.

1253 "Lawfully erected" means any sign that was erected pursuant to the issuance of a permit from the
 1254 Commonwealth Transportation Commissioner under § 33.1-360 unless the local governing body has
 1255 evidence of noncompliance with ordinances in effect at the time the sign was erected.

1256 "Legible" means capable of being read without visual aid by a person of normal visual acuity.

1257 "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the
 1258 case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite
 1259 directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways,
 1260 or parking areas.

1261 "Maintain" means to allow to exist.

1262 "Municipalities" means cities and incorporated towns.

1263 "National highway system" means the federal-aid highway system described in subsection (b) of
 1264 § 103 of Title 23, United States Code, and regulations adopted pursuant thereto. For the purpose of this
 1265 article, outdoor advertising controls on the national highway system shall be implemented as those
 1266 highways are designated and approved by congressional action and such designation and approval shall
 1267 be kept on file in the central office of the Department of Transportation and placed in the minutes of the
 1268 Commonwealth Transportation Board by the Commonwealth Transportation Commissioner. Prior to
 1269 congressional approval, highways classified as National System of Interstate and Defense Highways,
 1270 Dwight D. Eisenhower National System of Interstate and Defense Highways, Interstate System, or
 1271 federal-aid primary as defined herein shall be considered as the national highway system.

1272 "National System of Interstate and Defense Highways," "Dwight D. Eisenhower National System of
 1273 Interstate and Defense Highways," and "Interstate System" means the system presently defined in
 1274 subsection (e) of § 103 of Title 23, United States Code.

1275 A "nonconforming sign," "nonconforming advertisement," or "nonconforming advertising structure" is
 1276 one which was lawfully erected adjacent to any highway in the Commonwealth, but which does not
 1277 comply with the provisions of state law, state regulations, or ordinances adopted by local governing
 1278 bodies passed at a later date or which later fails to comply with state law, state regulations, or
 1279 ordinances adopted by local governing bodies due to changed conditions.

1280 "Person" includes an individual, partnership, association or corporation.

1281 "Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

1282 "Real property" includes any property physically attached or annexed to real property in any manner
 1283 whatsoever.

1284 "Rest area" means an area or site established and maintained within or adjacent to the right-of-way
 1285 or under public supervision or control, for the convenience of the traveling public.

1286 "Scenic area" means any public park, area of particular scenic beauty or historical significance
 1287 designated as a scenic area by the Commonwealth Transportation Board.

1288 "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster,

1289 billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the
 1290 advertising or informative contents of which is visible from any highway.

1291 "Town" means an incorporated town.

1292 "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or
 1293 thing used to identify particular products or services.

1294 "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of
 1295 shoulders.

1296 "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of
 1297 an interchange.

1298 "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than
 1299 one state, that part of the "urbanized area" within the Commonwealth, or an urban place.

1300 "Urban place" means an area so designated by the United States Bureau of the Census having a
 1301 population of 5,000 or more and not within any urbanized area, within boundaries fixed by the
 1302 Commonwealth Transportation Commissioner, in his discretion, in cooperation with the governing bodies
 1303 of the several counties, towns or cities affected and the appropriate federal authority. Such boundaries
 1304 shall, as a minimum, encompass the entire urban place designated by the United States Bureau of the
 1305 Census.

1306 "Urbanized area" means an area so designated by the United States Bureau of the Census, within
 1307 boundaries fixed by the Commonwealth Transportation Commissioner, in his discretion, in cooperation
 1308 with the governing bodies of the several counties, towns or cities affected and the appropriate federal
 1309 authority. Such boundaries shall, as a minimum, encompass the entire urbanized area within a state as
 1310 designated by the United States Bureau of the Census.

1311 "Virginia byway" and "scenic highway" mean those highways designated by the Commonwealth
 1312 Transportation Board pursuant to Article 5 (§ 33.1-62 et seq.) of Chapter 1 of this title. For the purposes
 1313 of the article, a Virginia byway shall mean a scenic byway as referenced in Title 23, United States
 1314 Code, § 131 (s).

1315 "Visible" means capable of being seen (whether or not legible) without visual aid by a person of
 1316 normal visual acuity.

1317 § 33.1-391.2. Department of Rail and Public Transportation created; Chief Executive Officer for
 1318 Transportation to serve as Director.

1319 There is hereby created a Department of Rail and Public Transportation reporting to the Secretary of
 1320 Transportation and, subject to the policy oversight of the Commonwealth Transportation Board. The
 1321 Department Chief Executive Officer for Transportation, elected by the Commonwealth Transportation
 1322 Board as provided in § 33.1-3, shall be headed by a serve as Director of the Department, hereinafter
 1323 referred to in this title as "Director;" who shall be appointed by and serve at the pleasure of the
 1324 Governor. The Director shall serve as a nonvoting ex-officio member of the Commonwealth
 1325 Transportation Board and any committee dealing with passenger and freight rail, transportation demand
 1326 management, ridesharing, and public transportation issues.

1327 § 33.1-391.3:1. Powers, duties, and responsibilities of Rail Advisory Board transferred to
 1328 Commonwealth Transportation Board.

1329 There is hereby established the Rail Advisory Board to consist of nine members appointed by the
 1330 Governor for terms of four years. Vacancies shall be filled for the unexpired term in the same manner
 1331 as the original appointment. One of such appointees shall be an at-large member of the Commonwealth
 1332 Transportation Board. The members of the Board shall elect a Chairman. The Board may, by majority
 1333 vote, choose one of its members to serve as vice-chairman. All powers, duties, and responsibilities
 1334 heretofore vested in the Rail Advisory Board are hereby transferred to the Commonwealth
 1335 Transportation Board, hereinafter referred to as "the Board." The Board shall, in consultation with the
 1336 Director, develop recommendations to be presented to the Commonwealth Transportation Board
 1337 regarding allocations of funds from the Rail Enhancement Fund. The Board shall also advise the
 1338 Director and the Department on other matters at the request of the Director or the Department. The
 1339 Board shall meet at the call of the Chairman. A majority of the members shall constitute a quorum for
 1340 the conduct of all Board business. The provisions of § 2.2-3112 shall not apply to members of the Rail
 1341 Advisory Board.

1342 The Board shall have the following responsibilities:

1343 1. In consultation with, and with the assistance of the Director, the Board shall develop
 1344 recommendations to be presented to the Commonwealth Transportation Board regarding all proposed
 1345 allocations of funds from the Rail Enhancement Fund.

1346 2. The Board shall work cooperatively with the Director of the Department of Rail and Public
 1347 Transportation and with any affected railroad in identifying, developing, and advocating projects and
 1348 policies to enhance the quality and utility to the public of rail transportation in the Commonwealth.

1349 3. At the request of the Director, the Board shall consider and advise the Director and the
 1350 Department on any other matter or matters pertaining to transportation in the Commonwealth.

1351 Members of the Board shall receive no compensation, but shall be reimbursed their actual and
 1352 necessary expenses incurred in connection with their official duties. Staff support for the Board shall be
 1353 provided by the Department of Rail and Public Transportation.

1354 § 33.1-391.5. Responsibilities of Department.

1355 The Department shall have the following responsibilities:

1356 1. Determine present and future needs for, and economic feasibility of providing, public
 1357 transportation, transportation demand management, and ridesharing facilities and services and the
 1358 retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;

1359 2. Formulate and implement plans and programs for the establishment, improvement, development
 1360 and coordination of public transportation, transportation demand management, and ridesharing facilities
 1361 and services, and the retention and improvement of passenger and freight rail transportation services and
 1362 corridors in the Commonwealth, and coordinate transportation demand management and innovative
 1363 technological transportation initiatives with the Department of Transportation;

1364 3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and
 1365 planning for the rail and public transportation modes as may be appropriate to ensure the provision of
 1366 effective, safe, and efficient public transportation and passenger and freight rail services in the
 1367 Commonwealth;

1368 4. Develop uniform financial and operating data on and criteria for evaluating all public
 1369 transportation activities in the Commonwealth, develop specific methodologies for the collection of such
 1370 data by public transit operators, regularly and systematically verify such data by means of financial
 1371 audits and periodic field reviews of operating data collection methodologies, and develop such other
 1372 information as may be required to evaluate the performance and improve the economy or efficiency of
 1373 public transit or passenger and freight rail operations, transportation demand management programs, and
 1374 ridesharing in the Commonwealth;

1375 5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in the
 1376 Commonwealth abandoned after January 1, 1970;

1377 6. Provide training and other technical support services to transportation operators and ridesharing
 1378 coordinators as may be appropriate to improve public transportation, ridesharing, and passenger and
 1379 freight rail services;

1380 7. Maintain liaison with state, local, district and federal agencies or other entities, private and public,
 1381 having responsibilities for passenger and freight rail, transportation demand management, ridesharing,
 1382 and public transportation programs;

1383 8. Receive, administer and allocate all planning, operating, capital, and any other grant programs
 1384 from the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway
 1385 Administration, and other agencies of the United States government for public transportation, passenger
 1386 and freight rail transportation, transportation demand management, and ridesharing purposes with
 1387 approval of the Board and to comply with all conditions attendant thereto;

1388 9. Administer all state grants for public transportation, rail transportation, ridesharing, and
 1389 transportation demand management purposes with approval of the Board;

1390 10. Promote the use of public transportation, transportation demand management, ridesharing, and
 1391 passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of
 1392 goods;

1393 11. Represent the Commonwealth on local, regional, and national agencies, industry associations,
 1394 committees, task forces, and other entities, public and private, having responsibility for passenger and
 1395 freight rail, transportation demand management, ridesharing, and public transportation;

1396 12. Represent the Commonwealth's interests in passenger and freight rail, transportation demand
 1397 management, ridesharing, and public transportation and coordinate with the Department of
 1398 Transportation in the planning, location, design, construction, implementation, monitoring, evaluation,
 1399 purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail,
 1400 transportation demand management, ridesharing, or public transportation;

1401 13. Coordinate with the State Corporation Commission on all matters dealing with rail safety
 1402 inspections and rail regulations which fall within its purview;

1403 14. Prepare and review state legislation and Commonwealth recommendations on federal legislation
 1404 and regulations as directed by the ~~Secretary of Transportation~~ *Chief Executive Officer for*
 1405 *Transportation*;

1406 15. Promote public transportation, ridesharing, and passenger and freight rail safety; and

1407 16. Ensure the safety of rail fixed guideway transit systems within the Commonwealth and carry out
 1408 state safety and security oversight responsibilities for rail fixed guideway transit systems as required by
 1409 the Federal Transit Administration and federal law. For any rail fixed guideway transit system operated
 1410 within the Commonwealth pursuant to an interstate compact, the Department shall perform its oversight
 1411 responsibilities in accordance with the interstate compact governing the operation of such system and

1412 any applicable federal law.

1413 § 46.2-200. Department of Motor Vehicles.

1414 There shall be a Department of Motor Vehicles in the executive department, responsible to the
1415 Secretary of ~~Transportation~~ *Finance*. The Department shall be under the supervision and management of
1416 the Commissioner of the Department of Motor Vehicles.

1417 The Department shall be responsible for the administration of the motor vehicle license, registration
1418 and title laws; the issuance, suspension, and revocation of driver's licenses; the examination of applicants
1419 for and holders of driver's licenses; the administration, training, disciplining, and assignment of
1420 examiners of applicants for driver's licenses; the administration of the safety responsibility laws, fuel tax
1421 laws, the provisions of this title relating to transportation safety, and dealer licensing laws; the
1422 registration of carriers of passengers or property and vehicles that may be required to be registered
1423 under the International Registration Plan or pay road tax as described under Chapter 27 (§ 58.1-2700 et
1424 seq.) of Title 58.1 under the International Fuel Tax Agreement; the audit of carriers of passengers or
1425 property for compliance with registration and road tax requirements; proof of financial responsibility;
1426 and any other services that may be required to create a single point of contact for motor carriers
1427 operating within and without the Commonwealth, including the operation of permanent and mobile
1428 motor carrier service centers.

1429 § 46.2-206. Disposition of fees.

1430 Except as otherwise provided in this title, all fees and moneys collected pursuant to the provisions of
1431 Chapters 1, 2, 3, 6, 8, 10, 12, and 16 through 26 of this title shall be paid into the state treasury, and
1432 warrants for the expenditure of funds necessary for the proper enforcement of this title shall be issued
1433 by the Comptroller on certificates of the Commissioner or his representatives, designated by him and
1434 bonded, that the parties are entitled thereto, and shall be paid by the State Treasurer out of such funds,
1435 not exceeding the amount appropriated in the general appropriation bill.

1436 These funds, except as is otherwise provided in this section, shall constitute special funds within the
1437 Commonwealth Transportation Fund to be expended (i) under the direction of the ~~Commonwealth~~ *Chief*
1438 *Executive Officer for Transportation* ~~Commissioner~~ for the construction, reconstruction, and maintenance
1439 of roads and bridges in the state highway system, interstate system, and secondary system of state
1440 highways and (ii) as authorized by the ~~Commissioner~~ *Chief Executive Officer for Transportation* for the
1441 expenses incident to the maintenance of the Department, including its customer service centers, and for
1442 other expenses incurred in the enforcement of this title. Any funds available for construction or
1443 reconstruction under the provisions of this section shall be, as nearly as possible, equitably apportioned
1444 by the Commonwealth Transportation Commission among the several construction districts. Beginning
1445 July 1, 1998, any balances remaining in these funds at the end of the fiscal year shall be available for
1446 use in subsequent years for the purposes set forth in this section, and any interest income on such funds
1447 shall accrue to the respective individual special funds.

1448 There may be paid out of these funds such sums as may be provided by law for (i) contributions
1449 toward the construction, reconstruction, and maintenance of streets in cities or towns and (ii) the
1450 operation and maintenance of the Department of Transportation, the Department of Rail and Public
1451 Transportation, the Department of Aviation, the Virginia Port Authority, the Department of State Police,
1452 and the Department of Motor Vehicles.

1453 § 46.2-223. Additional powers and duties of Commissioner.

1454 The Commissioner shall have the following powers and duties related to transportation safety:

1455 1. To evaluate safety measures currently in use by all transport operators in all modes which operate
1456 in or through the Commonwealth, with particular attention to the safety of equipment and appliances and
1457 methods and procedures of operation;

1458 2. To engage in training and educational activities aimed at enhancing the safe transport of
1459 passengers and property in and through the Commonwealth;

1460 3. To cooperate with all relevant entities of the federal government, including, but not limited to, the
1461 Department of Transportation, the Federal Railway Administration, the Federal Aviation Administration,
1462 the Coast Guard, and the Independent Transportation Safety Board in matters concerning transportation
1463 safety;

1464 4. To initiate, conduct, and issue special studies on matters pertaining to transportation safety;

1465 5. To evaluate transportation safety efforts, practices, and procedures of the agencies or other entities
1466 of the government of the Commonwealth and make recommendations to the ~~Secretary of~~ *Chief*
1467 *Executive Officer for Transportation*, the Governor, and the General Assembly on ways to increase
1468 transportation safety consciousness or improve safety practices;

1469 6. To assist entities of state government and political subdivisions of the Commonwealth in
1470 enhancing their efforts to ensure safe transportation, including the dissemination of relevant materials
1471 and the rendering of technical or other advice;

1472 7. To collect, tabulate, correlate, analyze, evaluate, and review the data gathered by various entities
1473 of the state government in regard to transportation operations, management, and accidents, especially the

1474 information gathered by the Department of Motor Vehicles, the Department of State Police, and the
1475 State Corporation Commission;

1476 8. To develop, implement, and review, in conjunction with relevant state and federal entities, a
1477 comprehensive highway safety program for the Commonwealth, and to inform the public about it;

1478 9. To assist towns, counties and other political subdivisions of the Commonwealth in the
1479 development, implementation, and review of local highway safety programs as part of the state program;

1480 10. To review the activities, role, and contribution of various state entities to the Commonwealth's
1481 highway safety program and to report annually and in writing to the Governor and General Assembly on
1482 the status, progress, and prospects of highway safety in the Commonwealth;

1483 11. To recommend to the ~~Secretary of~~ *Chief Executive Officer for* Transportation, the Governor, and
1484 the General Assembly any corrective measures, policies, procedures, plans, and programs which are
1485 needed to make the movement of passengers and property on the highways of the Commonwealth as
1486 safe as practicable;

1487 12. To design, implement, administer, and review special programs or projects needed to promote
1488 highway safety in the Commonwealth;

1489 13. To integrate highway safety activities into the framework of transportation safety in general; and

1490 14. To administer the Traffic Safety Fund established pursuant to § 46.2-749.2:10 and to accept
1491 grants, gifts, bequests, and other moneys contributed to, deposited in, or designated for deposit in the
1492 Fund.

1493 § 46.2-224. Board of Transportation Safety.

1494 There is hereby established within the Department of Motor Vehicles a Board of Transportation
1495 Safety, hereinafter referred to in this section as "the Board," to advise the Commissioner of Motor
1496 Vehicles, the ~~Secretary of~~ *Chief Executive Officer for* Transportation, and the Governor on transportation
1497 safety matters. The Board shall elect a chairman and meet at his call, and shall seek to identify the
1498 elements of a comprehensive safety program for all transport modes operating in Virginia. In addition,
1499 the Board may consider, study, and report on the following issues: (i) the identification of the unique
1500 safety needs of each particular mode of transportation; (ii) the identification of the common elements of
1501 safe transportation operation, regardless of mode of transportation; (iii) the adoption of proven safety
1502 practices and technology in use in one mode to other modes of transportation; (iv) the identification of
1503 the common elements of accident situations; and (v) the allocation of grant funds made available to the
1504 Department.

1505 The Board shall consist of twelve members appointed by the Governor, subject to confirmation of
1506 the General Assembly. One member shall be appointed from each of the geographic operating districts
1507 used by the Department and shall reside in the district from which he is appointed. The remaining
1508 members shall be at-large members representing transportation safety interests in the areas of air, rail,
1509 water, motor carriers, pupil transportation, pedestrians, bicyclists, and public transit and, insofar as
1510 practical, should reflect fair and equitable statewide representation. Members shall serve for terms of
1511 four years, and no member shall serve for more than two full consecutive terms. Appointment and
1512 confirmation of Board members under this section shall occur only as the terms of the current members
1513 of the Board expire under prior law.

1514 Board members shall be reimbursed for their necessary and actual expenses incurred in the
1515 performance of their duties.

1516 § 46.2-302. Driving while restoration of license is contingent on furnishing proof of financial
1517 responsibility.

1518 No resident or nonresident (i) whose driver's license or learner's permit has been suspended or
1519 revoked by any court or by the Commissioner or by operation of law, pursuant to the provisions of this
1520 title or of § 18.2-271, or who has been disqualified pursuant to the provisions of the Virginia
1521 Commercial Driver's License Act (§ 46.2-341.1 et seq.), or (ii) who has been forbidden as prescribed by
1522 law by the Commissioner, the State Corporation Commission, the ~~Commonwealth~~ *Chief Executive*
1523 *Officer for* Transportation ~~Commissioner~~, or the Superintendent of State Police, to drive a motor vehicle
1524 in the Commonwealth shall drive any motor vehicle in the Commonwealth during any period wherein
1525 the restoration of license or privilege is contingent upon the furnishing of proof of financial
1526 responsibility, unless he has given proof of financial responsibility in the manner provided in Article 15
1527 (§ 46.2-435 et seq.) of Chapter 3 of this title. Any person who drives a motor vehicle on the roads of
1528 the Commonwealth and has furnished proof of financial responsibility but who has failed to pay a
1529 reinstatement fee, shall be tried under § 46.2-300.

1530 A first offense violation of this section shall constitute a Class 2 misdemeanor. A second or
1531 subsequent violation of this section shall constitute a Class 1 misdemeanor.

1532 § 46.2-373. Report by law-enforcement officer investigating accident.

1533 A. Every law-enforcement officer who in the course of duty investigates a motor vehicle accident
1534 resulting in injury to or death of any person or total property damage to an apparent extent of \$1,500 or

1535 more, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing
1536 participants or witnesses shall, within twenty-four hours after completing the investigation, forward a
1537 written report of the accident to the Department. The report shall include the name or names of the
1538 insurance carrier or of the insurance agent of the automobile liability policy on each vehicle involved in
1539 the accident.

1540 B. Any report filed pursuant to subsection A of this section shall include information as to (i) the
1541 speed of each vehicle involved in the accident and (ii) the type of vehicles involved in all accidents
1542 between passenger vehicles and vehicles or combinations of vehicles used to transport property, and (iii)
1543 whether any trucks involved in such accidents were covered or uncovered.

1544 C. The Department shall supply copies of accident reports received under this section to the
1545 ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~ who shall exercise the
1546 authority granted to him under §§ 46.2-870 through 46.2-878 to reduce speed limits where accident
1547 frequency or severity or other factors may indicate the course of action to be warranted.

1548 § 46.2-675. Certain vehicles engaged in mining or quarrying operations; permit when such vehicle
1549 required to cross public highways.

1550 No person shall be required to obtain the registration certificate, license plates and decals or to pay a
1551 registration fee prescribed for any motor vehicle engaged in coal mining operations or other types of
1552 mining and quarrying operations, if the sole function of the motor vehicle is to haul coal from mine to
1553 tippie or to haul other mined or quarried products from mine or quarry to a processing plant. The owner
1554 of the vehicle, however, shall first obtain, without charge, a permit from the ~~Commonwealth Chief~~
1555 ~~Executive Officer for Transportation Commissioner~~ in any case in which the motor vehicle is required to
1556 cross the public highways. The ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~
1557 shall not issue the permit unless he is satisfied that the owner of the motor vehicle has, at his own
1558 expense, strengthened the highway crossing so that it will adequately bear the load and has provided
1559 adequate signs, lights, or flagmen as may be required for the protection of the public. Any damage done
1560 to the highways as a result of this operation shall be repaired in a manner satisfactory to the
1561 ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~ at the expense of the vehicle's
1562 owner.

1563 § 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification
1564 system in conjunction with certain toll facilities; penalty.

1565 A. The operator of any toll facility or the locality within which such toll facility is located may
1566 install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle
1567 identification system, or both, at locations where tolls are collected for the use of such toll facility. The
1568 operator of a toll facility shall send an invoice or bill for unpaid tolls to the registered owner of a
1569 vehicle as part of an electronic or manual toll collection process, prior to seeking remedies under this
1570 section.

1571 B. Information collected by a photo-monitoring system or automatic vehicle identification system
1572 installed and operated pursuant to subsection A shall be limited exclusively to that information that is
1573 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,
1574 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic
1575 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)
1576 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be
1577 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle
1578 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a
1579 pending action or proceeding unless the action or proceeding relates to a violation of this section or
1580 upon order from a court of competent jurisdiction. Information collected under this section shall be
1581 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,
1582 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic
1583 vehicle identification system shall annually certify compliance with this section and make all records
1584 pertaining to such system available for inspection and audit by the ~~Commonwealth Chief Executive~~
1585 ~~Officer for Transportation Commissioner~~ or the Commissioner of the Department of Motor Vehicles or
1586 their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to
1587 any fines or other penalties provided for by law, any money or other thing of value obtained as a result
1588 of a violation of this section shall be forfeited to the Commonwealth.

1589 The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll
1590 so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably
1591 related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall
1592 not be levied upon the operator of the vehicle until the second unpaid toll has been documented. The
1593 operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in an invoice or bill
1594 issued by a toll facility operator. If paid within 30 days of notification, the administrative fee shall not
1595 exceed \$25.

1596 C. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a

1597 civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first
 1598 offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and
 1599 any subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid
 1600 toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the
 1601 vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic
 1602 vehicle identification system as provided in this section, to have used such a toll facility without
 1603 payment of the required toll.

1604 D. Any action under this section shall be brought in the General District Court of the city or county
 1605 in which the toll facility is located.

1606 E. Proof of a violation of this section shall be evidenced by information obtained from a
 1607 photo-monitoring system or automatic vehicle identification system as provided in this section. A
 1608 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
 1609 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
 1610 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
 1611 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,
 1612 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
 1613 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
 1614 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
 1615 communication by an automatic vehicle identification device with the automatic vehicle identification
 1616 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
 1617 identification device was located in the vehicle registered to use such device in the records of the
 1618 Virginia Department of Transportation.

1619 F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to
 1620 subsection K of this section was operated in violation of this section.

1621 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
 1622 pursuant to subsection K of this section was in violation of this section, the court shall impose a civil
 1623 penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified
 1624 in subsection C of this section, together with applicable court costs, the operator's administrative fee and
 1625 the toll due. Penalties assessed as the result of action initiated by the Virginia Department of
 1626 Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia
 1627 Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action
 1628 initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be
 1629 remanded by the clerk of the court which adjudicated the action to the treasurer or director of finance of
 1630 the county or city in which the violation occurred for payment to the toll facility operator.

1631 The registered owner of such vehicle shall be given reasonable notice by way of a summons as
 1632 provided in subsection K of this section that his vehicle had been used in violation of this section and
 1633 such owner shall be given notice of the time and place of the hearing as well as the civil penalty and
 1634 costs for such offense.

1635 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the
 1636 registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the
 1637 violation and providing the legal name and address of the operator of the vehicle at the time of the
 1638 violation, a summons will also be issued to the alleged operator of the vehicle at the time of the offense.

1639 In any action against a vehicle operator, an affidavit made by the registered owner providing the
 1640 name and address of the vehicle operator at the time of the violation shall constitute prima facie
 1641 evidence that the person named in the affidavit was operating the vehicle at all the relevant times
 1642 relating to the matter named in the affidavit.

1643 If the registered owner of the vehicle produces a certified copy of a police report showing that the
 1644 vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained
 1645 stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the
 1646 registered owner of the vehicle.

1647 G. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to
 1648 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
 1649 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
 1650 any applicant or the license plate issued for the vehicle driven in the commission of the offense until the
 1651 court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is
 1652 proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a
 1653 court that the person identified in an affidavit pursuant to subsection F as the operator violated this
 1654 section and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify
 1655 the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant
 1656 or the license plate issued for any vehicle owned or co-owned by such person until the court has
 1657 notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds

1658 representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be
1659 transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Fund
1660 or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department
1661 of Transportation, to the treasurer or director of finance of the county or city in which the violation
1662 occurred for payment to the toll facility operator. The Commissioner shall collect a \$40 administrative
1663 fee from the registered owner or operator of the vehicle to defray the cost of processing and removing
1664 an order to deny registration or registration renewal.

1665 H. For purposes of this section, "operator of a toll facility other than the Virginia Department of
1666 Transportation" means any agency, political subdivision, authority, or other entity that operates a toll
1667 facility; "owner" means the registered owner of a vehicle on record with the Department of Motor
1668 Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing
1669 company; "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll
1670 collection device that automatically produces one or more photographs, one or more microphotographs, a
1671 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this
1672 section; "automatic vehicle identification system" means an electronic vehicle identification system
1673 installed to work in conjunction with a toll collection device that automatically produces an electronic
1674 record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility;
1675 and "automatic vehicle identification device" means an electronic device that communicates by wireless
1676 transmission with an automatic vehicle identification system.

1677 I. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a
1678 party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement
1679 or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the
1680 summons. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the
1681 renter or lessee identified therein. Release of this information shall not be deemed a violation of any
1682 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the
1683 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall
1684 allow at least 30 days from the date of such mailing before pursuing other remedies under this section.
1685 In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit
1686 identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the
1687 person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant
1688 times relating to the matter named in the summons.

1689 J. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
1690 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
1691 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance
1692 coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine
1693 or cost imposed or ordered paid under this section for a violation of this section.

1694 K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
1695 executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be
1696 considered conservators of the peace for the sole and limited purpose of mailing such summons.
1697 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed
1698 by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the
1699 records of the Department of Motor Vehicles or, if the registered owner has named and provided a valid
1700 address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to
1701 subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of
1702 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
1703 manner set out in § 19.2-76.3.

1704 L. The operator of a toll facility may enter into an agreement with the Department of Motor
1705 Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain
1706 vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for
1707 the use of toll facilities and with the Virginia Department of Transportation to obtain any information
1708 that is necessary to conduct electronic toll collection. Information provided to the operator of a toll
1709 facility shall only be used for the collection of unpaid tolls and the operator of the toll facility shall be
1710 subject to the same conditions and penalties regarding release of the information as contained in
1711 subsection B.

1712 M. No person shall be subject to both the provisions of this section and to prosecution under
1713 § 46.2-819 for actions arising out of the same transaction or occurrence.

1714 § 46.2-873.1. Maximum speed limit on nonsurface treated highways for certain counties.

1715 The maximum speed limit on nonsurface treated highways, which are roads that are comprised of an
1716 earth-aggregate or aggregate surface (i.e., dirt and gravel) that have not been stabilized with a
1717 bituminous or cementitious material, shall be 35 miles per hour. The maximum speed limit upon such
1718 highways may be increased or decreased by the ~~Commonwealth~~ *Chief Executive Officer for*
1719 ~~Transportation Commissioner~~ or other authority having jurisdiction over highways. However, such

1720 increased or decreased maximum speed limit shall be effective only when indicated by sign on the
 1721 highway. For such highways upon which maximum speed limit is not indicated by sign, the maximum
 1722 speed limit shall be 35 miles per hour.

1723 The provisions of this section shall apply only in the Counties of Albemarle, Clarke, Fauquier,
 1724 Frederick, Loudoun, Montgomery, Warren, and Wythe.

1725 § 46.2-877. Minimum speed limits.

1726 No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable
 1727 movement of traffic except when reduced speed is necessary for safe operation or in compliance with
 1728 law.

1729 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or local
 1730 authorities within their respective jurisdictions determine on the basis of a traffic engineering and traffic
 1731 investigation that slow speeds on any part of a highway consistently impede the normal and reasonable
 1732 movement of traffic, the ~~Commissioner~~ *Chief Executive Officer for Transportation* or such local
 1733 authority may determine and declare a minimum speed limit to be set forth on signs posted on such
 1734 highway below which no person shall drive a vehicle except when necessary for safe operation or in
 1735 compliance with law.

1736 § 46.2-878. Authority to change speed limits.

1737 Notwithstanding the other provisions of this article, the ~~Commonwealth~~ *Chief Executive Officer for*
 1738 *Transportation Commissioner* or other authority having jurisdiction over highways may decrease the
 1739 speed limits set forth in § 46.2-870 and may increase or decrease the speed limits set forth in
 1740 §§ 46.2-873 through 46.2-875 on any highway under its jurisdiction; and may establish differentiated
 1741 speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in
 1742 § 46.2-870 and by increasing for daytime or decreasing for nighttime the speed limits set forth in
 1743 §§ 46.2-873 through 46.2-875 on any highway under his jurisdiction. Such increased or decreased speed
 1744 limits and such differentiated speed limits for daytime and nighttime driving shall be effective only
 1745 when prescribed after a traffic engineering investigation and when indicated on the highway by signs. It
 1746 shall be unlawful to operate any motor vehicle in excess of speed limits established and posted as
 1747 provided in this section. The increased or decreased speed limits over highways under the control of the
 1748 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* shall be effective only when
 1749 prescribed in writing by the *Chief Executive Officer for Transportation Commissioner* and kept on file in
 1750 the Central Office of the Department of Transportation. Whenever the speed limit on any highway has
 1751 been increased or decreased or a differential speed limit has been established and such speed limit is
 1752 properly posted, there shall be a rebuttable presumption that the change in speed was properly
 1753 established in accordance with the provisions of this section.

1754 § 46.2-881. Special speed limitation on bridges, tunnels and interstates.

1755 It shall be unlawful to drive any motor vehicle, trailer, or semitrailer on any public bridge, causeway,
 1756 viaduct, or in any tunnel, or on any interstate at a speed exceeding that indicated as a maximum by
 1757 signs posted thereon or at its approach by or on the authority of the ~~Commonwealth~~ *Chief Executive*
 1758 *Officer for Transportation Commissioner*.

1759 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, on request or on his
 1760 own initiative, may conduct an investigation of any public bridge, causeway, viaduct, tunnel, or
 1761 interstate and, on the basis of his findings, may set the maximum speed of vehicles which such structure
 1762 or roadway can withstand or which is necessitated in consideration of the benefit and safety of the
 1763 traveling public and the safety of the structure or roadway. The ~~Commonwealth~~ *Chief Executive Officer*
 1764 *for Transportation Commissioner* is expressly authorized to establish and indicate variable speed limits
 1765 on such structures or roadways to be effective under such conditions as would in his judgment, warrant
 1766 such variable limits, including but not limited to darkness, traffic conditions, atmospheric conditions,
 1767 weather, emergencies, and like conditions which may affect driving safety. Any speed limits, whether
 1768 fixed or variable, shall be prominently posted in such proximity to such structure or roadway as deemed
 1769 appropriate by the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*. The
 1770 findings of the ~~Commissioner~~ *Chief Executive Officer for Transportation* shall be conclusive evidence of
 1771 the maximum safe speed which can be maintained on such structure or roadway.

1772 § 46.2-883. Signs indicating legal rate of speed and measurement of speed by radar.

1773 Signs to indicate the legal rate of speed and that the speed of motor vehicles may be measured by
 1774 radar or other electrical devices shall be placed at or near the State boundary on those interstate and
 1775 primary highways which connect the Commonwealth to other jurisdictions at such locations as the
 1776 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, in his discretion, may select.
 1777 There shall be a prima facie presumption that such signs were placed at the time of the commission of
 1778 the offense of exceeding the legal rate of speed, and a certificate by the ~~Commonwealth~~ *Chief Executive*
 1779 *Officer for Transportation Commissioner* as to the placing of such signs shall be admissible in evidence
 1780 to support or rebut the presumption. Such legal rate of speed and notice of measurement of speed by

1781 radar or other electrical devices may be posted on different signs and need not be posted on the same
1782 sign.

1783 § 46.2-930. Loitering on bridges or highway rights-of-way.

1784 Pedestrians shall not loiter on any bridge or in any portion of the right-of-way of any highway where
1785 loitering has been determined by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
1786 ~~Commissioner~~ or the local governing body of any county, city, or town to present a public safety hazard
1787 and on which the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or the
1788 governing body of any county, city, or town has posted signs prohibiting such action. Local jurisdictions
1789 shall obtain concurrence from the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
1790 ~~Commissioner~~ on the placements of signs on the right-of-way of any bridge or highway under the
1791 jurisdiction and control of the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~
1792 or the Virginia Department of Transportation; however, the local jurisdiction shall be responsible for all
1793 costs of the production, installation, and maintenance of the signs. Any person violating the provisions
1794 of this section shall be guilty of a traffic infraction.

1795 § 46.2-932. Playing on highways; use of toy vehicle on highways, persons riding bicycles, electric
1796 personal assistive mobility devices, electric power-assisted bicycles, mopeds, etc., not to attach to
1797 vehicles; exception.

1798 A. No person shall play on a highway, other than on the sidewalks thereof, within a city or town or
1799 on any part of a highway outside the limits of a city or town designated by the ~~Commonwealth~~ *Chief*
1800 *Executive Officer for Transportation* ~~Commissioner~~ exclusively for vehicular travel. No person shall use
1801 any toy vehicle on the roadway of any highway that (i) has a speed limit greater than 25 miles per hour,
1802 (ii) has more than two travel lanes, or (iii) is located outside a residence district as defined in
1803 § 46.2-100. The governing bodies of counties, cities, and towns may designate areas on highways under
1804 their control where play is permitted and may impose reasonable restrictions on play on such highways.
1805 Persons using such devices, except bicycles, electric personal assistive mobility devices, electric
1806 power-assisted bicycles, mopeds, and motorcycles, shall keep as near as safely practicable to the far
1807 right side or edge of the right traffic lane so that they will be proceeding in the same direction as other
1808 traffic.

1809 No person riding on any bicycle, electric personal assistive mobility device, electric power-assisted
1810 bicycle, moped, roller skates, skateboards or other devices on wheels or runners, shall attach the same or
1811 himself to any vehicle on a highway.

1812 B. Notwithstanding the provisions of subsection A of this section, the governing body of Arlington
1813 County may by ordinance permit the use of devices on wheels or runners on highways under such
1814 county's control, subject to such limitations and conditions as the governing body may deem necessary
1815 and reasonable.

1816 § 46.2-1104. Reduction of limits by Chief Executive Officer for Transportation and local authorities;
1817 penalties.

1818 The ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~, acting through
1819 employees of the Department of Transportation, may prescribe the weight, width, height, length, or
1820 speed of any vehicle or combination of vehicles passing over any highway or section of highway or
1821 bridge constituting a part of the interstate, primary, or secondary system of highways. Any limitations
1822 thus prescribed may be less than those prescribed in this title whenever an engineering study discloses
1823 that it would promote the safety of travel or is necessary for the protection of any such highway.

1824 If the reduction of limits as provided in this section is to be effective for more than 90 days, a
1825 written record of this reduction shall be kept on file at the central office of the Department of
1826 Transportation. In instances where the limits, including speed limits, are to be temporarily reduced, the
1827 representative of the Department of Transportation in the county wherein such highway is located shall
1828 immediately notify the Chief Engineer for the Department of Transportation of such reduction. The
1829 Chief Engineer shall either affirm or rescind the action of reducing such limits within five days from the
1830 date the limits have been posted as hereinafter provided. A list of all highways on which there has been
1831 a reduction of limits as herein provided shall be kept on file at the central office of the Department of
1832 Transportation. Anyone aggrieved by such reduction of limits may appeal directly to the ~~Commonwealth~~
1833 *Chief Executive Officer for Transportation* ~~Commissioner~~ for redress, and if he affirms the action of
1834 reducing such limits, the Commonwealth Transportation Board shall afford any such aggrieved person
1835 the opportunity of being heard at its next regular meeting.

1836 The local authorities of counties, cities, and towns, where the highways are under their jurisdiction,
1837 may adopt regulations or pass ordinances decreasing the weight limits prescribed in this title for a total
1838 period of no more than 90 days in any calendar year, when an engineering study discloses that operation
1839 over such highways or streets by reason of deterioration, rain, snow, or other climatic conditions will
1840 seriously damage such highways unless such weights are reduced.

1841 In all instances where the limits for weight, size, or speed have been reduced by the ~~Commonwealth~~
1842 *Chief Executive Officer for Transportation* ~~Commissioner~~ or the weights have been reduced by local

1843 authorities pursuant to this section, signs stating the weight, height, width, length, or speed permitted on
 1844 such highway shall be erected at each end of the section of highway affected and no such reduced limits
 1845 shall be effective until such signs have been posted.

1846 It shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section
 1847 thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the
 1848 Commonwealth *Chief Executive Officer for Transportation Commissioner* or local authorities pursuant to
 1849 this section.

1850 Any violation of any provision of this section shall constitute a Class 2 misdemeanor. Furthermore,
 1851 the vehicle or combination of vehicles involved in such violation may be held upon an order of the
 1852 court until all fines and costs have been satisfied.

1853 § 46.2-1109. Widths of commercial vehicles.

1854 No commercial vehicle shall exceed 102 inches in width when operating on any interstate highway
 1855 or on any highway designated by the Commonwealth Transportation Board. The width limitation in this
 1856 section shall not include rear view mirrors, turn signal lights, handholds for cab entry and egress, splash
 1857 suppressant devices, and load-induced tire bulge. Safety devices, with the exception of rear view mirrors,
 1858 shall not extend more than three inches on each side of a vehicle. The Commonwealth Transportation
 1859 Board shall designate reasonable access to terminals, facilities for food, fuel, repairs, and rest. Household
 1860 goods carriers and any tractor truck semitrailer combination in which the semitrailer has a length of no
 1861 more than twenty-eight and one-half feet shall not be denied reasonable access to points of loading and
 1862 unloading, except as designated, based on safety considerations, by the Commonwealth Transportation
 1863 Board. No reasonable access designation shall be made, however, until notice of any proposed
 1864 designation has been provided by the Commonwealth *Chief Executive Officer for Transportation*
 1865 *Commissioner* to the governing body of every locality wherein any highway affected by the proposed
 1866 designation is located.

1867 For the purposes of this section, a commercial vehicle is defined as a loaded or empty motor vehicle,
 1868 trailer, or semitrailer designed or regularly used for carrying freight, merchandise, or more than ten
 1869 passengers, including buses, but not including vehicles used for vanpools.

1870 § 46.2-1110. Height of vehicles; damage to overhead obstruction; penalty.

1871 No loaded or unloaded vehicle shall exceed a height of 13 feet, six inches.

1872 Nothing contained in this section shall require either the public authorities or railroad companies to
 1873 provide vertical clearances of overhead bridges or structures in excess of 12 feet, six inches, or to make
 1874 any changes in the vertical clearances of existing overhead bridges or structures crossing highways. The
 1875 driver or owner of vehicles on highways shall be held financially responsible for any damage to
 1876 overhead bridges or structures that results from collisions therewith.

1877 The driver or owner of any vehicle colliding with an overhead bridge or structure shall immediately
 1878 notify, either in person or by telephone, a law-enforcement officer or the public authority or railroad
 1879 company, owning or maintaining such overhead bridge or structure of the fact of such collision, and his
 1880 name, address, driver's license number, and the registration number of his vehicle. Failure to give such
 1881 notice immediately, either in person or by telephone, shall constitute a Class 1 misdemeanor.

1882 On any highway over which there is a bridge or structure having a vertical clearance of less than 14
 1883 feet, the Commonwealth *Chief Executive Officer for Transportation Commissioner* shall have at least two
 1884 signs erected setting forth the height of the bridge or structure. Such signs shall be located at least 1,500
 1885 feet ahead of the bridge or structure.

1886 The Virginia Department of Transportation may install and use overheight vehicle optical detection
 1887 systems to identify vehicles that exceed the overhead clearance of the westbound tunnel of the Hampton
 1888 Roads Bridge Tunnel on Interstate Route 64. When the optical system sensor located closest to the
 1889 westbound tunnel entrance is used in identifying such vehicles, the system shall be installed at the
 1890 specified height as determined by measurement standards that have been certified by the Commissioner
 1891 of the Virginia Department of Agriculture and Consumer Services, and are traceable to national
 1892 standards of measurement. Such identification by such system shall, for all purposes of law, be
 1893 equivalent to having measured the height of the vehicle with a tape measure or other measuring device.

1894 Any person who drives or attempts to drive any vehicle or combination of vehicles into or through
 1895 any tunnel when the height of such vehicle, any vehicle in a combination of vehicles, or any load on
 1896 any such vehicle exceeds that permitted for such tunnel, shall be guilty of a misdemeanor and, in
 1897 addition, shall be assessed three driver demerit points. In addition, the driver of any such vehicle shall
 1898 be fined \$1,000, of which \$1,000 shall be a mandatory minimum. For subsequent offenses, the owner of
 1899 any such vehicle shall be fined \$2,500, of which \$2,500 shall be a mandatory minimum.

1900 A violation of this section shall be deemed for all purposes a moving violation.

1901 § 46.2-1112. Length of vehicles, generally; special permits; tractor truck semitrailer combinations,
 1902 etc., operating on certain highways; penalty.

1903 Except for buses and motor homes, no motor vehicle longer than 40 feet shall be operated on any

1904 highway in the Commonwealth. The actual length of any combination of vehicles coupled together
1905 including any load thereon shall not exceed a total of 65 feet. However, the length of a tractor truck
1906 semitrailer combination may exceed 65 feet in length, provided the semitrailer does not exceed 53 feet
1907 in length and the distance between the kingpin of the semitrailer and the rearmost axle or a point
1908 midway between the rear tandem axles does not exceed 41 feet. The ~~Commonwealth~~ *Chief Executive*
1909 *Officer for Transportation Commissioner* may impose restrictions on the operation of vehicles exceeding
1910 65 feet in length on certain roads, based on a safety and engineering analysis. No bus or motor home
1911 longer than 45 feet shall be operated on any highway in the Commonwealth. No tolerance shall be
1912 allowed that exceeds 12 inches.

1913 The Commissioner, however, when good cause is shown, may issue a special permit for
1914 combinations either in excess of 65 feet, including any load thereon, or where the object or objects to be
1915 carried cannot be moved otherwise. Such permits may also be issued by the Department when the total
1916 number of otherwise overdimensional loads of modular housing of no more than two units may be
1917 reduced by permitting the use of an overlength trailer not exceeding 54 feet. No permit shall be issued
1918 by the Commissioner until an engineering analysis of a proposed routing has been conducted by the
1919 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* to assess the ability of the
1920 roadway to be traversed to sustain the vehicle's size.

1921 No overall length restrictions, however, shall be imposed on any tractor truck semitrailer
1922 combinations drawing one trailer or any tractor truck semitrailer combinations when operated on any
1923 interstate highway or on any highway as designated by the Commonwealth Transportation Board. No
1924 such designation shall be made, however, until notice of any proposed designation has been provided by
1925 the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* to the governing body of
1926 every locality wherein any highway affected by the proposed designation is located.

1927 No individual semitrailer or trailer being drawn in a tractor truck semitrailer trailer combination,
1928 however, shall exceed 28 1/2 feet in length, and no semitrailer being operated in a tractor truck
1929 semitrailer combination shall exceed 48 feet in length, except when semitrailers have a distance of not
1930 more than 41 feet between the kingpin of the semitrailer and the rearmost axle or a point midway
1931 between the rear tandem axles, such semitrailer shall be allowed not more than 53 feet in length.

1932 The length limitations on semitrailers and trailers in the foregoing provisions of this section shall be
1933 exclusive of safety and energy conservation devices, steps and handholds for entry and egress, rubber
1934 dock guards, flexible fender extensions, mudflaps, refrigeration units, and air compressors. The
1935 Commonwealth Transportation Board shall designate reasonable access to terminals, facilities for food,
1936 fuel, repairs and rest. Household goods carriers and any tractor truck semitrailer combination in which
1937 the semitrailer has a length of no more than 28 1/2 feet shall not be denied reasonable access to points
1938 of loading and unloading, except as designated, based on safety considerations, by the Commonwealth
1939 Transportation Board.

1940 Any person operating a vehicle whose length is not in conformity with the provisions of this chapter
1941 on a two-lane highway where passing is permitted shall be guilty of a traffic infraction and fined \$250.

1942 § 46.2-1144.1. Overweight permits for tank wagons.

1943 The Commissioner, upon written application and payment of a fee by the owner of tank wagon
1944 vehicles as defined in § 58.1-2201, shall issue overweight permits for operation of said vehicles.

1945 The overweight permit fees shall be based on a fee schedule established by the ~~Commonwealth~~ *Chief*
1946 *Executive Officer for Transportation Commissioner*. Such fees shall be dedicated to and deposited into
1947 the Highway Maintenance and Operating Fund.

1948 The Commissioner may also assess a separate application fee for applications pursuant to this section
1949 that covers the administrative expenses of the Department. Funds from the application fee are to be
1950 designated as specified in § 46.2-1149.3.

1951 No permit issued under this section shall authorize a single axle weight of more than 24,000 pounds
1952 and a total gross weight in excess of 40,000 pounds. Permits issued under this section shall be valid for
1953 one year from the date of issuance. No permit issued under this section shall authorize violation of any
1954 weight limitation, promulgated and posted in accordance with § 46.2-1130, applicable to bridges or
1955 culverts. This permit shall not be combined with any other overweight permit or extension of weight
1956 limits.

1957 § 46.2-1145. Overweight permits for certain trucks operated by Arlington County.

1958 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, upon written
1959 application by Arlington County, shall issue without cost to such county a permit authorizing the
1960 county's operation of vehicles used for hauling household waste and vehicles used for highway or utility
1961 construction, operation, or maintenance upon the highways of such county at gross weights exceeding
1962 those set forth in § 46.2-1126. Permits issued hereunder shall specify that vehicles with two axles may
1963 have a maximum gross weight of no more than 48,000 pounds and a single axle weight of not more
1964 than 24,000 pounds and that vehicles with three axles may have a maximum gross weight of not more
1965 than 60,000 pounds and a single axle weight of not more than 24,000 pounds and a tandem axle weight

1966 of not more than 40,000 pounds.

1967 The permit shall not designate the route to be traversed nor contain restrictions or conditions not
1968 applicable to other vehicles in their general use of the highways. Each vehicle, when loaded according
1969 to the provisions of a permit issued under this section shall be operated at a reduced speed of ten miles
1970 per hour slower than the legal speed limit in fifty-five, forty-five, and thirty-five miles per hour speed
1971 limit zones.

1972 § 46.2-1223. Authority of Chief Executive Officer for Transportation to regulate parking on certain
1973 parts of State Highway System.

1974 Except as otherwise provided in this article, the ~~Commonwealth~~ *Chief Executive Officer for*
1975 ~~Transportation Commissioner~~ may, by regulation, regulate parking on any part of the primary and
1976 secondary systems of state highways.

1977 § 46.2-1307. Designation of private roads as highways for law-enforcement purposes.

1978 The governing body of any county, city, or town may adopt ordinances designating the private roads,
1979 within any residential development containing 100 or more lots or residential dwelling units, as
1980 highways for law-enforcement purposes. Such ordinance may also provide for certification of road signs
1981 and speed limits by private licensed professional engineers using criteria developed by the
1982 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, and, for law-enforcement
1983 purposes, such certification shall have the same effect as if certified by the ~~Commonwealth~~ *Chief*
1984 *Executive Officer for Transportation Commissioner*.

1985 § 46.2-1307.1. Designation of private roads as highways for law-enforcement purposes in Warren
1986 County.

1987 Notwithstanding the provisions of § 46.2-1307, the governing body of Warren County may adopt
1988 ordinances designating the private roads, within any residential development containing 50 or more lots,
1989 as highways for law-enforcement purposes. Such ordinance may also provide for certification of road
1990 signs and speed limits by private licensed professional engineers using criteria developed by the
1991 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, and, for law-enforcement
1992 purposes, such certification shall have the same effect as if certified by the ~~Commonwealth~~ *Chief*
1993 *Executive Officer for Transportation Commissioner*.

1994 § 53.1-58. Highway employees as guards.

1995 The Director, with the consent of the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
1996 ~~Commissioner~~, may appoint and authorize employees of the Department of Transportation to act as
1997 guards of prisoners when such prisoners are at work on the roads under the jurisdiction of the
1998 Commonwealth Transportation Board. Such employees shall be deemed to be acting within the scope of
1999 their official duties for the Board when acting as guards pursuant to this section. The Director may
2000 authorize such employees to carry firearms in accordance with § 53.1-29.

2001 § 55-201.1. Pendency of escheat proceedings no bar to condemnation proceedings.

2002 Notwithstanding any provision contained in this chapter, the ~~Commonwealth~~ *Chief Executive Officer*
2003 *for Transportation Commissioner* or any city, town, county or other political subdivision or agency of
2004 this Commonwealth possessing the power of eminent domain may, for any public purpose and
2005 notwithstanding the pendency of any proceeding brought for the escheat of any land wanted and needed
2006 by such ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or such city, town,
2007 county or other political subdivision or agency of ~~this~~ *the* Commonwealth for such purpose, institute,
2008 maintain and conduct to final judgment condemnation proceedings to acquire in fee simple such land or
2009 such lesser estate, title or interest therein as is wanted and needed for such public purpose, provided,
2010 however, that the escheator in whose name such escheat proceedings be pending and the Commonwealth
2011 of Virginia be made codefendants to such condemnation proceedings, together with the owner or
2012 owners, if known, of the land proposed to be condemned in such proceeding. The pendency of such
2013 escheat proceedings shall not constitute a bar or defense to such condemnation proceedings, nor to any
2014 proceeding therein seeking a right of entry as provided in § 25.1-223, in Chapter 3 (§ 25.1-300 et seq.)
2015 of Title 25.1, or in Article 7 (§ 33.1-89 et seq.) of Chapter 1 of Title 33.1. No escheator, after being
2016 served with notice of the filing of any such condemnation proceeding, shall sell or dispose of any land
2017 sought to be acquired in such condemnation proceeding except upon order entered by the court in which
2018 such condemnation proceeding is pending. The funds paid into court as compensation and/or damages
2019 for the land so taken or damaged shall, after payment of taxes and other claims constituting valid liens
2020 against the land so taken, be ordered distributed to the party or parties entitled thereto or be ordered
2021 paid to the escheator of said land, or to the State Treasurer, as the court, in its discretion, shall direct.

2022 § 56-27. Applications required for crossings.

2023 Before the work is commenced upon any such crossing, the public service corporation which
2024 proposes to cross the public road shall make written application to and submit to the board of
2025 supervisors or other governing body of the county in which such highway is located and to the
2026 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* plans, specifications and

2027 descriptions of the proposed crossing and of the proposed appliances and methods of operation thereof;
 2028 and if the plans, specifications and descriptions are not accepted by such board of supervisors or other
 2029 governing body aforesaid and by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
 2030 ~~Commissioner~~ within ~~sixty~~ 60 days after the same shall have been delivered to the clerk of such board
 2031 of supervisors or other governing body aforesaid and to the ~~Commonwealth~~ *Chief Executive Officer for*
 2032 *Transportation Commissioner*, such public service corporation may then proceed with the construction
 2033 and operation of the crossing, under the plans, specifications and descriptions and with the appliances
 2034 and methods so submitted.

2035 § 56-28. Contest by county or Chief Executive Officer for Transportation.

2036 The board of supervisors or other governing body aforesaid or the ~~Commonwealth~~ *Chief Executive*
 2037 *Officer for Transportation Commissioner* may, however, within ~~thirty~~ 30 days from the date of the
 2038 submission of such plans, specifications and descriptions, reject the same, and may apply to the
 2039 Commission to inquire into the necessity for such crossing, and the propriety of the proposed location,
 2040 and all matters pertaining to its construction and operation; and, thereupon the Commission, in its
 2041 discretion, may, after notice served upon the public service corporation, the board of supervisors or other
 2042 governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
 2043 ~~Commissioner~~, suspend work on such crossing for such reasonable time prescribed in such notice as it
 2044 may deem necessary to make such inquiry. The Commission may, in its discretion, employ expert
 2045 engineers, at a cost not to exceed \$500, to be paid by the public service corporation desiring the
 2046 crossing, who shall, with the Commission, or some member thereof, or such person as the Commission
 2047 may designate, (1) examine the location, plans, specifications and descriptions of appliances and
 2048 methods proposed to be employed, (2) hear any objection, and consider any modification that the board
 2049 of supervisors or other governing body aforesaid, or the ~~Commonwealth~~ *Chief Executive Officer for*
 2050 *Transportation Commissioner*, may desire to offer, and, (3) within such time as the Commission may
 2051 fix, reject, approve, or modify such plans, specifications and descriptions. The final order of the
 2052 Commission shall, unless an appeal be taken to the Supreme Court by any party to the proceeding
 2053 within ~~thirty~~ 30 days of the date of such final order, be final and binding on the public service
 2054 corporation and the board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~
 2055 *Chief Executive Officer for Transportation Commissioner*.

2056 § 56-29. Change of course of highway to avoid crossings.

2057 If any public service corporation desires that the course of any public road shall be changed to avoid
 2058 the necessity of any crossing, or frequent crossings of the same, or for any other purpose in connection
 2059 with the crossing, the change may be made in such manner, and on such terms as may be agreed on by
 2060 the company desiring the change and by the board of supervisors or other governing body aforesaid and
 2061 the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, after changes shall have
 2062 been first clearly indicated on plans and specifications submitted to the board of supervisors or other
 2063 governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
 2064 ~~Commissioner~~, and after the plans and specifications shall have been approved in writing both by the
 2065 board of supervisors or other governing body aforesaid, and the ~~Commonwealth~~ *Chief Executive Officer*
 2066 *for Transportation Commissioner*.

2067 § 56-32. Limitation on crossing rights if altering, closing or obstructing highway or stream involved.

2068 No state highway or county road or stream, or watercourse, shall be altered, closed or obstructed by
 2069 any public service corporation for any of the purposes mentioned in § 56-23 until it shall have first
 2070 submitted plans and specifications to the board of supervisors or other governing body aforesaid, and to
 2071 the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, of the proposed alteration,
 2072 closing or obstruction, and until after the plans and specifications shall have been first approved in
 2073 writing both by the board of supervisors or other governing body aforesaid, and by the ~~Commonwealth~~
 2074 *Chief Executive Officer for Transportation Commissioner*. And in any such case such public service
 2075 corporation shall provide and construct an equally convenient highway or waterway in lieu of any such
 2076 highway or waterway so altered, closed or obstructed.

2077 § 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to widen,
 2078 strengthen, remodel, relocate or replace existing crossing structures on public highways.

2079 Whenever a road in the State Highway System or a public highway maintained by a locality (i)
 2080 crosses a railroad, (ii) is projected across a railroad, or (iii) is to be so changed as to cross a railroad, or
 2081 an existing overpass or underpass crossing of any such road and a railroad is in need of widening,
 2082 strengthening, remodeling, relocating or replacing, and funds are (or are to be) allocated by the
 2083 Commonwealth Transportation Board or public road authority for payment of the locality's or state's
 2084 portion of the cost of constructing such an overpass or underpass structure or for widening,
 2085 strengthening, remodeling, relocating or replacing such an existing structure, the ~~Commonwealth~~ *Chief*
 2086 *Executive Officer for Transportation Commissioner* or representative of the public road authority may
 2087 agree with the railroad company or companies involved, on such terms and conditions as he shall deem
 2088 in the best interests of the Commonwealth or locality regarding the plans and specifications, the method

2089 and manner of construction and the division of costs and maintenance responsibility of any such
 2090 separation of grade structure. In case of a separation of grade by structure at a new, or an existing,
 2091 grade crossing, the project, except in special cases and under special circumstances to be mutually
 2092 agreed upon by the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, the public
 2093 road authority, and the railroad company or companies involved, shall be deemed to start at points on
 2094 each side of the tracks of the railroad or railroads where the grade, under the proposed plans and
 2095 specifications, leaves the ground line to go over or under, as the case may be, the tracks of the railroad
 2096 or railroads.

2097 In the event the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, the public
 2098 road authority, and the railroad company or companies involved are unable to agree on (i) the necessity
 2099 for the construction of such underpass or overpass structure or for the widening, strengthening,
 2100 remodeling, relocating or replacing of any existing overpass or underpass structure, (ii) the plans and
 2101 specifications for and method or manner of construction thereof, or (iii) the portion of the work, if any,
 2102 to be done and the share of the cost of such project, if any, to be borne by each of the railroad
 2103 company or companies involved, the ~~Commonwealth~~ *Chief Executive Officer for Transportation*
 2104 ~~Commissioner~~ or the public road authority shall petition the State Corporation Commission setting forth
 2105 the plans and specifications for and the method and manner of construction of such project and the facts
 2106 which in his opinion justify the elimination of the crossing, the erection of a new separation of grade
 2107 structure or the widening, strengthening, remodeling, relocating or replacing of an existing structure and
 2108 the maintenance responsibility. Copies of the petition and the plans and specifications shall forthwith be
 2109 served by the State Corporation Commission on the railroad company or companies involved. Within
 2110 twenty days after service on it of such petition and plans and specifications, the railroad company or
 2111 companies shall file an answer with the State Corporation Commission setting out its objections to the
 2112 proposed project and the Commission shall hear and determine the matter as other matters are heard and
 2113 determined by that body. The Commission shall consider all the facts and circumstances surrounding the
 2114 case and shall determine (a) whether public necessity and convenience justifies or requires the
 2115 construction of such new separation of grade structure or whether an existing structure is so dangerous
 2116 to or insufficient to take care of traffic on the highway as to require the widening, strengthening,
 2117 remodeling, relocating or replacing proposed, (b) whether the plans and specifications or method and
 2118 manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done
 2119 and what share of the cost of such project, if any, to be borne by each of the railroad company or
 2120 companies involved (excluding the cost of right-of-way) is fair and reasonable, having regard to the
 2121 benefits, if any, accruing to such railroad or railroads from the elimination of such grade crossing or the
 2122 widening, strengthening, remodeling, relocating or replacing any existing overpass or underpass
 2123 structure, and either dismiss the proceeding as against the railroad company or companies involved or
 2124 enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

2125 Grade crossings shall be closed when replaced by a new public highway. However, the
 2126 Commonwealth Transportation Board or the public road authority may authorize the continued use of
 2127 the crossing for a period of two years following the construction of the new highway to familiarize the
 2128 public with the new route.

2129 § 56-366.3. Proceedings to alter, rebuild or replace existing grade separation structure destroyed or
 2130 rendered unusable.

2131 In the event an existing overpass or crossing over a railroad is destroyed or rendered unusable or
 2132 otherwise becomes necessary to alter, rebuild, or replace, which overpass or crossing is maintained by a
 2133 railroad company, such company shall immediately notify the ~~Commonwealth~~ *Chief Executive Officer*
 2134 *for Transportation Commissioner*, or the public road authority of its intent to formulate plans for such
 2135 alteration, rebuilding, or replacement. The ~~Commissioner~~ *Chief Executive Officer for Transportation* or
 2136 the public road authority shall, as soon as practicable after receipt of such notice, determine if, in
 2137 consideration of the needs of the state systems of highways, the work to be done on such existing
 2138 separation structure should encompass any upgrading of such overpass. Upon reaching such decision, the
 2139 ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority shall forthwith
 2140 notify the company thereof.

2141 If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road
 2142 authority determines that upgrading is not necessary, the company, within six months of notice thereof,
 2143 shall, in consultation with the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative
 2144 of the public road authority, formulate and submit plans to the ~~Commissioner~~ *Chief Executive Officer for*
 2145 *Transportation* or representative of the public road authority for the necessary work. As soon as the
 2146 plans are submitted the *Chief Executive Officer for Transportation Commissioner* or representative of the
 2147 public road authority shall review the same and after determining the plans are satisfactory, shall notify
 2148 the railroad to begin construction by a specified date and to complete such construction within a
 2149 specified time limit after considering public safety, convenience and necessity and the amount, nature

2150 and extent of the planned construction. All costs of necessary work, including formulation of plans,
2151 where upgrading is not necessary, shall be borne by the company. In the event there is a disagreement
2152 as to the design, method of construction and date of completion, such dispute shall be resolved under
2153 the procedural provisions of § 56-366.1.

2154 If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or public road authority determines
2155 that upgrading is necessary or desirable, the same procedure for coordination with the company shall
2156 apply except that the parties may agree that the ~~Commissioner~~ *Chief Executive Officer for*
2157 *Transportation* or representative of the public road authority formulate, and execute plans for such work,
2158 in consultation with such company. Disputes as to matters in this regard, including allocation of cost,
2159 shall also be resolved by petition to the State Corporation Commission and any new overpass shall be
2160 maintained in accordance with § 56-368.1.

2161 When it is necessary only to repair any overpass, maintained by such railroad, the railroad shall
2162 perform all work and bear all costs in connection therewith.

2163 All duties under this section shall be performed as expeditiously as possible. Nothing herein shall be
2164 construed in any way to limit the authority of the ~~Commissioner~~ *Chief Executive Officer for*
2165 *Transportation* or representative of the public road authority over public highways and overpasses.

2166 § 56-369. Elimination of public grade crossings by change of alignment of public highways or
2167 construction of replacement public highways.

2168 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or the
2169 appropriate public road authority in improving the alignment of public highways proposes to change the
2170 alignment of the highway or construct a replacement public highway and thereby permanently eliminate
2171 as a public crossing one or more crossings of a railroad at grade, he may agree with the railroad
2172 company involved, on such terms and conditions as he or the representative of the public road authority
2173 shall deem in the best interest of the Commonwealth or locality regarding the plans and specifications,
2174 the method and manner of construction and the division of costs of so changing the alignment of the
2175 highway. Grade crossings shall be closed when replaced by a new public highway. However, the
2176 Commonwealth Transportation Board or the public road authority may authorize the continued use of
2177 the crossing for a period of two years following the construction of the new public highway to
2178 familiarize the public with the new route.

2179 In the event the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or the
2180 public road authority and the railroad company are unable to agree (i) on the necessity for such change
2181 in the alignment of the highway, or (ii) the plans and specifications for the method and manner of
2182 construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such
2183 project, if any, to be borne by the railroad company involved, the ~~Commonwealth~~ *Chief Executive*
2184 *Officer for Transportation* ~~Commissioner~~ or the public road authority shall petition the State Corporation
2185 Commission setting forth the plans and specifications for the method and manner of changing the
2186 alignment of the public highway and the facts which, in his opinion, justify the proposed elimination as
2187 a public crossing of one or more crossings of the railroad at grade. Copies of the petition and the plans
2188 and specifications shall forthwith be served by the State Corporation Commission on the railroad
2189 company involved. Within twenty days after service on it of such petition and plans and specifications,
2190 the railroad company involved shall file an answer with the State Corporation Commission setting out
2191 its objections to the proposed project and the Commission shall hear and determine the matter as other
2192 matters are heard and determined by that body. The Commission shall consider all the facts and
2193 circumstances surrounding the case and shall determine (a) whether public necessity and convenience
2194 justifies or requires the proposed change in the alignment of the highway which shall not, in respect to
2195 any particular project within the meaning of this section, exceed five miles in length, (b) whether the
2196 plans and specifications or method and manner of construction are proper and appropriate, and (c) what
2197 portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne
2198 by the railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing
2199 to such railroad from the elimination of such grade crossing or crossings, and either dismiss the
2200 proceeding as against the railroad company involved or enter an order deciding and disposing of all of
2201 the matters hereinbefore submitted to its jurisdiction, provided, however, that the share of the cost of
2202 such project which the Commission may find proper to be borne by the railroad under the provisions of
2203 this section, shall not exceed what the Commission might otherwise decide would be the proportion of
2204 the cost of constructing an overpass or underpass structure or structures at the point or points where
2205 such public grade crossing or crossings are to be eliminated.

2206 § 56-405. Railroad companies to maintain grade crossings of public highways and approaches; repair
2207 by Chief Executive Officer for Transportation or public road authority; recovery of cost from railroad
2208 company.

2209 At every crossing, now existing or hereafter established, of a public road by a railroad or of a
2210 railroad by a public highway at grade, it shall be the duty of the railroad company to keep such crossing
2211 in good repair to the full width of the public highway, and to maintain such crossing in a smooth

2212 condition so as to admit of reasonable and safe travel over the same, and it shall also be the duty of the
 2213 railroad company to maintain and keep in good repair that portion of the highway located between
 2214 points two feet on either side of the extreme rails. A railroad may request that a public highway be
 2215 closed for grade crossing maintenance activities, and the representative of the ~~Commonwealth~~ *Chief*
 2216 *Executive Officer for Transportation* ~~Commissioner~~ or the representative of the appropriate public road
 2217 authority may approve such closing where a reasonable detour is available. Any railroad company
 2218 violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction,
 2219 shall be fined not less than \$10 nor more than \$500.

2220 The ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or the representative of
 2221 the public road authority, whenever he or it shall ascertain that any such crossing is not being properly
 2222 maintained, shall notify the railroad company involved in writing to repair the crossing forthwith; the
 2223 railroad company upon receipt of notice may request a conference on the condition of the crossing and
 2224 the need, if any, for the repair of such crossing and such conference shall be held within ~~thirty~~ 30 days
 2225 after receipt of the ~~Commissioner's~~ *Chief Executive Officer for Transportation's* or the public road
 2226 authority's notice. After the conference if the ~~Commissioner~~ *Chief Executive Officer for Transportation*
 2227 or the public road authority is of the opinion that such repairs are required and the railroad is not
 2228 willing to proceed promptly with such repairs, he or the public road authority may repair the same or
 2229 cause it to be repaired and recover from the railroad company the actual cost of such work including
 2230 any administration and engineering cost.

2231 If no conference is requested by the railroad company within the ~~thirty-day~~ 30-day period, the
 2232 ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority with advance
 2233 notice may repair the crossing or cause it to be repaired and recover from the railroad company the
 2234 actual cost of such work including any administration and engineering cost.

2235 In any action under this section to recover the cost of the repair of any such crossing, the need for,
 2236 and reasonableness of, the repairs may be put in issue.

2237 Nothing herein shall be construed as placing a duty on the railroad company to construct or
 2238 reconstruct any such crossing in the event any such crossing is relocated or the highway approaches
 2239 thereto are widened or reconstructed.

2240 § 56-405.1. Agreements with Chief Executive Officer for Transportation or public road authority
 2241 representative for maintenance and repair of public grade crossings.

2242 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or
 2243 representative of the appropriate public road authority determines that it is in the best interest of the
 2244 public to assist a railroad in its grade crossing maintenance and repair activities, he is authorized to
 2245 enter into an agreement with the railroad company for the repair or maintenance of any crossing of a
 2246 railroad and a public highway or for the sale of materials to the railroad company for the repair and
 2247 maintenance of any such crossing. Any such agreement shall provide for the railroad company to bear
 2248 the cost of the repair or maintenance or material furnished and such other conditions as the
 2249 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or representative of the
 2250 appropriate public road authority deems necessary or advisable to protect the interest of the public.

2251 § 56-405.2. Construction and maintenance of crossbucks.

2252 Every railroad company shall cause signal boards, hereinafter referred to as crossbucks, well
 2253 supported by posts or otherwise and approved by the Department of Transportation at such heights as to
 2254 be easily seen by travelers from both directions of the public highway, and not obstructing travel,
 2255 containing in capital letters, at least five inches high, the inscription "railroad crossing," to be placed,
 2256 and constantly maintained, at each public highway at or near, and on both sides of, each place where it
 2257 is crossed by the railroad at the same level. The requirements of this section in localities that maintain
 2258 their own streets may be waived at specific crossings on the petition of any such company to both the
 2259 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ and the public road authority if
 2260 both the *Chief Executive Officer for Transportation* ~~Commissioner~~ and the public road authority
 2261 determine that any such crossing has or will have other adequate warning devices or that the placement
 2262 of new crossbucks will not enhance the safety of the traveling public. Neither official action nor failure
 2263 to act as hereinabove provided shall impair the power of the ~~Commissioner~~ *Chief Executive Officer for*
 2264 *Transportation* or the public road authority to require crossbucks at specific public crossings should a
 2265 subsequent determination of their need be made.

2266 The cost of erecting crossbucks placed at a public highway for the first time or whenever the
 2267 ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority determines an
 2268 upgrade of the standards is required may be paid or supplemented from federal funds when available to
 2269 the Department of Transportation for such purpose at the sole discretion of the ~~Commonwealth~~ *Chief*
 2270 *Executive Officer for Transportation* ~~Commissioner~~. But the election of the ~~Commissioner~~ *Chief*
 2271 *Executive Officer for Transportation* not to participate in such cost shall not relieve any company from
 2272 the obligation of this section.

2273 This section shall apply as to cities and towns in the case of new crossbucks beginning July 1, 1977.
 2274 § 56-406.1. Proceedings for installation and maintenance of automatically operated gates, signals and
 2275 other automatic crossing warning devices.

2276 Railroads shall cooperate with the Virginia Department of Transportation and the Department of Rail
 2277 and Public Transportation in furnishing information and technical assistance to enable the
 2278 Commonwealth to develop plans and project priorities for the elimination of hazardous conditions at any
 2279 crossing of a public highway which crosses at grade including, but not limited to, grade crossing
 2280 elimination, reconstruction of existing grade crossings, and grade crossing improvements. The
 2281 Commonwealth shall provide each locality a listing of grade crossing safety needs for its consideration.
 2282 Information collected and analyses undertaken by the designated state agencies are subject to 23 U.S.C.
 2283 § 409. A railroad shall not unilaterally select or determine the type of grade crossing warning system to
 2284 be installed at any crossing of a public highway and railroad at grade. The railroad shall only install or
 2285 upgrade a grade crossing warning system at any crossing of a public highway and railroad at grade
 2286 pursuant to an agreement with the Virginia Department of Transportation or representative of the
 2287 appropriate public road authority authorized to enter into such agreements. A railroad is not required but
 2288 is permitted to upgrade, at its own expense, components of any public highway at grade warning system
 2289 when such upgrade is incidental to a railroad improvement project relating to track, structures or train
 2290 control systems.

2291 When required by the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or
 2292 representative of the appropriate public road authority, every railroad company shall cause a grade
 2293 crossing warning device including flashing lights approved by the Department of Transportation at such
 2294 heights as to be easily seen by travelers, and not obstructing travel, to be placed, and maintained at each
 2295 public highway at or near each place where it is crossed by the railroad at the same level. Such warning
 2296 device shall be automatically activated by the approaching train so as to be clearly discernible to
 2297 travelers approaching the railroad crossing from each direction at a distance of ~~two hundred~~ 200 feet.
 2298 Such warning devices shall be erected at the initiative of the appropriate public road authority only
 2299 when required by ordinance or resolution adopted by the Commissioner or the appropriate public road
 2300 authority thereof stating that such political subdivision will pay the full initial installation cost of such
 2301 warning devices and that maintenance costs will be fixed as provided in § 56-406.2. A certified copy of
 2302 such ordinance or resolution shall be delivered to such railroad company, and such railroad company
 2303 shall forthwith install such warning devices at the full initial cost of such public road authority. The cost
 2304 of such installation and maintenance of such warning devices may be shared by agreement between such
 2305 railroad company and the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or
 2306 the appropriate public road authority, when initiating such installation. The railroad shall be responsible
 2307 for the continuing maintenance of the warning devices.

2308 In the event that such ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of
 2309 the appropriate public road authority and the railroad company or companies involved are unable to
 2310 agree on (i) the necessity for such grade crossing warning device, or (ii) the plans and specifications for
 2311 and the method and manner of construction or operation thereof, or (iii) the share of the cost of
 2312 construction, if any, to be borne by the railroad company or companies involved, then the
 2313 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or representative of the
 2314 appropriate public road authority, as the case may be, shall petition the State Corporation Commission
 2315 setting forth the grade crossing warning devices desired and the plans and specifications for and the
 2316 method and manner of construction and operation of the devices desired and the facts which, in the
 2317 opinion of the petitioner, justify the requiring of the same. Copies of the petition and plans and
 2318 specifications shall be forthwith served by the State Corporation Commission on the railroad company or
 2319 companies involved. Within ~~twenty~~ 20 days after service on it of such petition and plans and
 2320 specifications, each such railroad company shall file an answer with the State Corporation Commission
 2321 setting out its objections to the proposed project, and the Commission shall hear and determine the
 2322 matter as other matters are heard and determined by that body. The Commission shall consider all the
 2323 facts and circumstances surrounding the case and shall determine (a) whether public necessity justifies or
 2324 requires the proposed warning devices, (b) whether the plans and specifications or the method and
 2325 manner of construction and operation be proper and appropriate, and (c) what share of the cost of the
 2326 project, if any, to be borne by any railroad company involved is fair and reasonable, having regard to
 2327 the benefits, if any, accruing to such railroad company from providing such grade crossing warning
 2328 devices, and either dismiss the proceeding as against such railroad company or enter an order deciding
 2329 and disposing of all of the matters hereinbefore submitted to its jurisdiction.

2330 § 56-406.2. Proceeding for fixing cost of maintaining such warning devices at public grade crossings.
 2331 Whenever any automatically operated gate, signal or other automatic crossing warning device has
 2332 been or may hereafter be installed at any highway, road or street grade crossing by any railroad
 2333 company, the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or the public
 2334 road authority may agree with the railroad company involved as to the division of the cost of the future

2335 maintenance of any such device or devices. The basis for the division of costs shall be determined by
 2336 the Department of Rail and Public Transportation utilizing the calculated average maintenance cost of all
 2337 previous warning device maintenance performed and documented by all railroads operating in Virginia.
 2338 In the event that the Commissioner or the public road authority and the railroad company involved are
 2339 unable to agree upon the share of the cost of maintenance of any such device or devices to be borne by
 2340 the railroad company, if any, then such railroad company may file a petition with the State Corporation
 2341 Commission setting forth the crossing protection provided at such crossing, the terms of the contract
 2342 and/or the conditions of the order of said Commission or the public road authority under which it was
 2343 constructed and installed and the estimated future annual cost of maintaining the same. Copies of such
 2344 petition shall forthwith be served by the State Corporation Commission upon the ~~Commonwealth~~ *Chief*
 2345 *Executive Officer for Transportation Commissioner* or the public road authority who shall, within ~~twenty~~
 2346 20 days after service of such petition, file an answer thereto setting out reasons for declining to
 2347 participate in the future cost of maintaining such warning device or devices as requested by the railroad
 2348 company, and the Commission shall thereupon hear and determine the matter as other matters are heard
 2349 and determined by that body. The Commission shall consider all the facts and circumstances
 2350 surrounding the case and shall determine what share of the cost of the future maintenance of such
 2351 warning device or devices, if any, shall be borne by the railroad company and/or the Commonwealth
 2352 Transportation Board or the public road authority, having regard to the benefits, if any, accruing to such
 2353 railroad company from the continued maintenance of such protection of said public highway, road or
 2354 street grade crossing, and either dismiss the proceeding or enter an order deciding and disposing of the
 2355 matters therein submitted to its jurisdiction.

2356 § 56-458.1. Relocation of lines or works of certain public utilities acquired by Commonwealth
 2357 Transportation Board.

2358 Whenever a telegraph or telephone company, or any company mentioned in Chapter 10 (§ 56-232 et
 2359 seq.) of this title, shall be required by the Commonwealth Transportation Board, or the ~~Commonwealth~~
 2360 *Chief Executive Officer for Transportation Commissioner*, to remove any part of its lines or works off of
 2361 the right-of-way of a road now or hereafter included in either state highway system, or if any
 2362 right-of-way, property or interest therein used and occupied by such company with its lines or works, or
 2363 part thereof, is acquired by the Commonwealth Transportation Board, or the ~~Commonwealth~~ *Chief*
 2364 *Executive Officer for Transportation Commissioner*, for the uses of either such highway system, or if
 2365 such company is notified by such Board or ~~Commissioner~~ *Chief Executive Officer for Transportation* of
 2366 the desire of such Board or ~~Commissioner~~ *Chief Executive Officer for Transportation* to acquire such
 2367 right-of-way, property, or interest therein, used and occupied by such company with its lines or works,
 2368 or part thereof, for the uses of either such highway system, such company may relocate its lines or
 2369 works, or the part or parts thereof affected. If unable to agree with the owner or owners for the
 2370 right-of-way, or property, or interest therein for such relocation, such company, in addition to its other
 2371 powers, shall have the right to acquire such rights-of-way, or property, or interest therein for the purpose
 2372 of such relocation of its lines or works, or part or parts thereof in the manner provided by the laws of
 2373 this Commonwealth for the exercise of the right of eminent domain.

2374 § 56-573.1. Procurement.

2375 The Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to this chapter; however, a
 2376 responsible public entity may enter into an interim or a comprehensive agreement only in accordance
 2377 with guidelines adopted by it as follows:

2378 1. A responsible public entity may enter into an interim or a comprehensive agreement in accordance
 2379 with guidelines adopted by it that are consistent with procurement through "competitive sealed bidding"
 2380 as defined in § 2.2-4301 and subsection B of § 2.2-4310.

2381 2. A responsible public entity may enter into an interim or a comprehensive agreement in accordance
 2382 with guidelines adopted by it that are consistent with the procurement of "other than professional
 2383 services" through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310. Such
 2384 responsible public entity shall not be required to select the proposal with the lowest price offer, but may
 2385 consider price as one factor in evaluating the proposals received. Other factors that may be considered
 2386 include (i) the proposed cost of the qualifying transportation facility; (ii) the general reputation,
 2387 qualifications, industry experience, and financial capacity of the private entity; (iii) the proposed design,
 2388 operation, and feasibility of the qualifying transportation facility; (iv) the eligibility of the facility for
 2389 priority selection, review, and documentation timelines under the responsible public entity's guidelines;
 2390 (v) local citizen and public entity comments; (vi) benefits to the public; (vii) the private entity's
 2391 compliance with a minority business enterprise participation plan or good faith effort to comply with the
 2392 goals of such plan; (viii) the private entity's plans to employ local contractors and residents; (ix) the
 2393 safety record of the private entity; (x) the ability of the facility to address the needs identified in the
 2394 appropriate state, regional or local transportation plan by improving safety, reducing congestion,
 2395 increasing capacity, and/or enhancing economic efficiency; and (xi) other criteria that the responsible

2396 public entity deems appropriate.

2397 A responsible public entity shall proceed in accordance with the guidelines adopted by it pursuant to
 2398 subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted by it
 2399 pursuant to this subdivision is likely to be advantageous to the responsible public entity and the public,
 2400 based on (i) the probable scope, complexity, or urgency of a project; (ii) risk sharing including
 2401 guaranteed cost or completion guarantees, added value, or debt or equity investments proposed by the
 2402 private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that
 2403 would not otherwise be available. When the responsible public entity determines to proceed according to
 2404 the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in
 2405 writing. If a state agency is the responsible public entity, the approval of the ~~Secretary of~~ *Chief*
 2406 *Executive Officer for Transportation* shall be required as more specifically set forth in the guidelines
 2407 before the comprehensive agreement is signed.

2408 3. Interim or comprehensive agreements for maintenance or asset management services for a
 2409 transportation facility that is a highway, bridge, tunnel, or overpass, and any amendment or change order
 2410 thereto that increases the highway lane-miles receiving services under such an agreement, shall be
 2411 procured in accordance with guidelines that are consistent with procurement through "competitive sealed
 2412 bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310. Furthermore, such contracts shall be
 2413 of a size and scope to encourage maximum competition and participation by agency prequalified
 2414 contractors and otherwise qualified contractors.

2415 4. The provisions of subdivision 3 shall not apply to maintenance or asset management services
 2416 agreed to as part of the initial provisions of any interim or comprehensive agreement entered into for the
 2417 original construction, reconstruction, or improvement of any highway pursuant to Chapter 22 (§ 56-556
 2418 et seq.) of Title 56 and shall not apply to any concession that, at a minimum, provides for (i) the
 2419 construction, reconstruction, or improvement of any transportation facility or (ii) the operation and
 2420 maintenance of any transportation facility with existing toll facilities.

2421 5. Nothing in this section shall require that professional services be procured by any method other
 2422 than competitive negotiation in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et
 2423 seq.).

2424 § 63.2-611. Case management; support services; transitional support services.

2425 A. The Commissioner, through the local departments, with such funds as appropriated, shall offer
 2426 families participating in VIEW intensive case management services throughout the family's participation
 2427 in VIEW. Case management services shall include initial assessment of the full range of services that
 2428 will be needed by each family including testing and evaluation, development of the individualized
 2429 agreement of personal responsibility, and periodic reassessment of service needs and the agreement of
 2430 personal responsibility. It shall be the goal of the Department to have a statewide intensive case
 2431 management ratio not higher than the statewide average ratio in Title IV-F of the Social Security Act
 2432 Job Opportunities and Basic Skills Training Program State Plan as the ratio existed on July 1, 1995.

2433 B. Local departments are authorized to provide services to VIEW families throughout the family's
 2434 participation in VIEW subject to regulations adopted by the Board, including:

2435 1. Child care for the children of participants if:

2436 a. The participant is employed and child-care services are required to enable the continued
 2437 employment of the participant;

2438 b. Child-care services are required to enable a participant to receive job placement, job training or
 2439 education services; or

2440 c. The participant is otherwise eligible for child care pursuant to Board regulations.

2441 2. Transportation that will enable parental employment or participation in services required by the
 2442 agreement of personal responsibility.

2443 3. Job counseling, education and training, and job search assistance consistent with the purposes of
 2444 VIEW.

2445 4. Medical assistance.

2446 C. A participant whose TANF financial assistance is terminated, either voluntarily or involuntarily,
 2447 shall receive the following services for up to twelve months after termination, if needed:

2448 1. Assistance with child care if such assistance enables the individual to work;

2449 2. Assistance with transportation, if such transportation enables the individual to work;

2450 3. Medical assistance, including transitional medical assistance for families with a working parent
 2451 who becomes ineligible for TANF financial assistance because of increased earnings according to
 2452 policies of the Virginia Department of Medical Assistance Services; and

2453 4. Financial assistance of \$50 per month, if the participant is employed and is working at least 30
 2454 hours per week or more at the time of TANF closure and remains employed and continues to work at
 2455 least 30 hours per week or more.

2456 D. The Department or local departments may purchase or otherwise acquire motor vehicles from the
 2457 centralized fleet of motor vehicles controlled by the ~~Commonwealth Transportation Commissioner~~

2458 *Department of General Services* under Article 7 (§ 2.2-1173 et seq.) of Chapter 11 of Title 2.2 and sell
2459 or otherwise transfer such vehicles to TANF recipients or former recipients. Purchases, sales, and other
2460 transfers of vehicles under this subsection shall not be subject to the provisions of the Virginia Public
2461 Procurement Act (§ 2.2-4300 et seq.), or the provisions of §§ 2.2-1124, 2.2-1153, 2.2-1156, and
2462 2.2-1177 relating to the sale, purchase, and transfer of surplus motor vehicles and other surplus state
2463 property.

2464 E. Nothing in this section shall be construed or interpreted to create a cause of action or
2465 administrative claim based upon a right or entitlement to any specific services or an exemption or
2466 waiver from any provision of VIEW.

2467 **2. That it is the intent of the General Assembly, through the provisions of this act, to transfer all**
2468 **powers, duties, and responsibilities vested by any provision of the Code of Virginia in the**
2469 **Commonwealth Transportation Commissioner to the Chief Executive Officer for Transportation,**
2470 **who shall also serve and have all the powers, duties, and responsibilities of the Director of the**
2471 **Department of Aviation and the Director of the Department of Rail and Public Transportation.**
2472 **The term of office of persons occupying the position of Director of the Department of Aviation**
2473 **and the Director of the Department of Rail and Public Transportation prior to the effective date**
2474 **of this act shall expire on July 1, 2010. The Chief Executive Officer for Transportation shall have**
2475 **plenary powers to effect, to the greatest extent feasible, consolidation of operations, programs, and**
2476 **responsibilities into a single administrative entity. The Chief Executive Officer for Transportation**
2477 **shall be solely responsible and accountable to the Commonwealth Transportation Board, and the**
2478 **office of Secretary of Transportation is hereby abolished.**

2479 **3. That the changes in composition of the Commonwealth Transportation Board shall not affect**
2480 **any member appointed to that body by the Governor prior to July 1, 2010. Those appointed prior**
2481 **to that date shall continue to serve until the end of the term to which they were appointed.**
2482 **Thereafter, their successors shall be chosen as provided in the amendments to § 33.1-1 of the Code**
2483 **of Virginia in the first enactment of this act.**

2484 **4. That the Chief Executive Officer for Transportation shall make such legislative**
2485 **recommendations as he may deem necessary and proper to the 2011 Regular Session of the**
2486 **General Assembly to improve consolidation of the functions of the Department of Transportation,**
2487 **the Department of Rail and Public Transportation, and the Department of Aviation.**

2488 **5. That § 2.2-228 and § 5.1-2.3 of the Code of Virginia are repealed.**

INTRODUCED

SB103