

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 493

*An Act to amend and reenact §§ 17.1-276, 33.1-41.1, 33.1-70.01, and 33.1-330 of the Code of Virginia, relating to funding efficiencies and cost recovery measures for the Department of Rail and Public Transportation and the Department of Transportation.*

[H 2233]

Approved March 24, 2011

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

**1. That §§ 17.1-276, 33.1-41.1, 33.1-70.01, and 33.1-330 of the Code of Virginia are amended and reenacted as follows:**

§ 17.1-276. Fee allowed for providing secure remote access to land records.

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section established by the clerk to cover the operational expenses. Operational expenses shall include, but not be limited to, (i) computer support, maintenance, enhancements, upgrades, and replacements and office automation and information technology equipment including software and conversion services; (ii) preserving, maintaining, and enhancing court records, including, but not limited to, the costs of repairs, maintenance, consulting services, service contracts, redaction of social security numbers from land or other records, and system replacements or upgrades; and (iii) improving public access to records maintained by the clerk. A flat fee may be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency.

The Office of the Attorney General, Division of Debt Collection, *the Department of Transportation, and the Department of Rail and Public Transportation* shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, Division of Debt Collection, *the Department of Transportation, and the Department of Rail and Public Transportation* from paying any access or subscription fee.

B. (Expires September 30, 2012) The clerk of the Circuit Court of Prince William County may establish a pilot program under which the clerk assesses a daily fee for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk shall make a report on any such pilot program to the House Committee for Courts of Justice and the Senate Committee for Courts of Justice on or before September 30, 2012. The report shall provide a summary of the pilot program and include the level of participation, the costs of the program, and the revenues generated by the program.

§ 33.1-41.1. Payments to cities and certain towns for maintenance of certain highways.

The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth Transportation Board, shall make payments for maintenance, construction, or reconstruction of highways, as hereinafter provided, to all cities and towns eligible for allocation of construction funds for urban highways under § 33.1-23.3. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department of Transportation. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions of this section are hereby confirmed.

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least 50 feet wide and (ii) a hard-surface width of at least 30 feet; or (b) has (i) an unrestricted right-of-way at least 80 feet wide, (ii) a hard-surface width of at least 24 feet, and (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way at least 40 feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of Transportation; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation or (ii) has constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have

previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; or (g) is a street functionally classified as a local street and constructed on or after January 1, 1996, which at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current edition of the subdivision street requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.); (h) is a street previously eligible to receive street payments that is located in the City of Norfolk and the City of Richmond and is closed to public travel, pursuant to legislation enacted by the governing body of the city in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

However, the Commissioner may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the local governing body and is to protect the quality of the affected local government's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner may prescribe.

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (i) principal and minor arterial roads and (ii) collector roads and local streets. Payments *made* to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of highways in that locality. ~~For the fiscal year 1986, payment to each city and town shall be an amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile for collector roads and local streets.~~

~~The Department of Transportation shall recommend to the Commonwealth Transportation Board an annual rate per category to be computed using the base rate of growth planned for the Department's Highway Maintenance and Operations program. The Board shall establish a statewide maintenance index of the unit costs for labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in that index to calculate and put into effect the annual rates of such payments as part of its allocation for such purpose, and the Department of Transportation shall use those rates to calculate and put into effect annual changes in the base per-lane-mile rate payable each qualifying city's or town's payment under this section.~~

~~The fund allocated payments by the Board Department shall be paid in equal sums in each quarter of the fiscal year, and no payment payments shall be made without the approval not exceed the allocation of the Board.~~

The chief administrative officer of the city or town receiving this fund shall make annual categorical reports of expenditures to the ~~Board Department~~, in such form as the Board shall prescribe, accounting for all expenditures, certifying that none of the money received has been expended for other than maintenance, construction or reconstruction of the streets, and reporting on their performance as specified in subdivision B 3 of § 33.1-23.02. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

§ 33.1-70.01. Annual meeting with county officers; six-year plan for secondary highways; certain reimbursements required.

The governing body of each county in the secondary system may, jointly with the representatives of the Department of Transportation as designated by the Commonwealth Transportation Commissioner, prepare a six-year plan for the improvements to the secondary highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan, the board of supervisors or other governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks, and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before such meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department of Transportation, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following such discussion, the governing body, together with the representative of the Department of Transportation, shall finalize and officially adopt the six-year plan which shall then be considered the official plan of the county.

At least once in each calendar year representatives of the Department of Transportation in charge of the secondary system of highways in each county, or some representative of the Department designated by the Commonwealth Transportation Commissioner, shall meet with the governing body of each county

in a regular or special meeting of such governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department of Transportation shall furnish the governing body with an updated estimate of funds and the board and the representative of the Department of Transportation shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority, and following generally the policies of the Commonwealth Transportation Board in regard to the statewide secondary highway system improvements. Such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure hereinbefore outlined, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department of Transportation, shall adopt, as official, a priority program for the ensuing year, and the Department of Transportation shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years, following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department of Transportation, shall update the six-year plan of such county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the governing body may request a revision in such six-year plan in order that such plan be amended to provide for the expenditure of such additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the governing body and the representative of the Department of Transportation fail to agree upon a priority program, the governing body may appeal to the Commonwealth Transportation Commissioner. The Commissioner shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a governing body, with the concurrence of the representative of the Department of Transportation, from combining the public hearing required for revision of a six-year plan with the public hearing required for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary highway system, including those in the towns located in the county that are maintained as a part of the state secondary highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after ~~the Commonwealth Transportation Board has adopted~~ the location and design for the project *has been approved*, such county shall reimburse the ~~Board~~ *Department of Transportation* the net amount of all funds expended by the ~~Board~~ *Department of Transportation* for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary road allocations pursuant to § 33.1-23.4 have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary allocation. The ~~board~~ *Commonwealth Transportation Commissioner* may waive all or any portion of such reimbursement at its discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved road improvements.

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

#### § 33.1-330. Payment; refunding issue.

If a majority of the voters at the election vote in favor of the assumption of such indebtedness, the board of county supervisors may appropriate any part or all of the surplus in the general funds of the county, not otherwise appropriated, toward payment of the indebtedness assumed; and the board may likewise issue new bonds of the county at the same or a lower rate of interest for such amount as may then be necessary to retire outstanding bonds of the districts, and thereafter the board of county supervisors shall provide for the imposition and collection annually of a tax in addition to all other taxes on property subject to local taxation and not exempt from the levy of taxes formerly levied for the payment of bonds refunded, sufficient in amount to pay the interest on such bonds and the principal thereof, as the same respectively become due, notwithstanding any tax rate limitations which would otherwise be applicable to the levy of such taxes. Such tax shall be levied and collected by the same officers, at the same time and in the same manner as general taxes of the county.

The sale of such bonds, deposit of proceeds, security for deposits, provisions for sinking funds and expenses of authorization and issuance shall be in accordance with the provisions of general law except that the taxes for the payment of such bonds, principal and interest, shall be uniformly levied throughout the county. ~~The refunding bonds may be issued at any time within three years prior to the date of maturity, or the optional redemption date, of the bonds to be refunded, and the proceeds of the sale of such refunding bonds shall be invested in obligations of the United States of America maturing or redeemable at the option of the holder, not later than the date of maturity or the optional redemption~~

date of the bonds to be refunded.