

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 585

An Act to amend and reenact §§ 2.2-507, 5.1-49, 15.2-2223, 22.1-205, 28.2-555, 33.1-7, 33.1-11, 33.1-12, 33.1-23.03:7, 33.1-61, 33.1-183.1, 33.1-195, 33.1-196, 33.1-201, 33.1-207, 33.1-208, 33.1-229, 33.1-293, 33.1-342, 33.1-343, 33.1-370, 36-98.1, 46.2-804, 46.2-806, 46.2-830, 46.2-831, 46.2-847, 46.2-878.2, 46.2-889, 46.2-924, 46.2-1041, 46.2-1046, 46.2-1107, 46.2-1108, 46.2-1109, 46.2-1112, 46.2-1114, 46.2-1116, 46.2-1117, 53.1-56, 53.1-57, 56-258, 56-462, 67-1101, and 67-1103 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.1-13.05, by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:3, and by adding sections numbered 33.1-89.3 and 33.1-190.4, relating to the powers and duties of the Commonwealth Transportation Board, the Commissioner of Highways, the Department of Transportation, and the Department of Rail and Public Transportation.

[H 2116]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-507, 5.1-49, 15.2-2223, 22.1-205, 28.2-555, 33.1-7, 33.1-11, 33.1-12, 33.1-23.03:7, 33.1-61, 33.1-183.1, 33.1-195, 33.1-196, 33.1-201, 33.1-207, 33.1-208, 33.1-229, 33.1-293, 33.1-342, 33.1-343, 33.1-370, 36-98.1, 46.2-804, 46.2-806, 46.2-830, 46.2-831, 46.2-847, 46.2-878.2, 46.2-889, 46.2-924, 46.2-1041, 46.2-1046, 46.2-1107, 46.2-1108, 46.2-1109, 46.2-1112, 46.2-1114, 46.2-1116, 46.2-1117, 53.1-56, 53.1-57, 56-258, 56-462, 67-1101, and 67-1103 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.1-13.05, by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:3, and by adding sections numbered 33.1-89.3 and 33.1-190.4 as follows:

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents or employees of the Alcoholic Beverage Control Board;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, *the Department of Transportation, or the Department of Rail and Public Transportation*;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
10. Third impartial panel members appointed to hear a teacher's grievance pursuant to § 22.1-312;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical service agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

§ 5.1-49. Roads to airports and landing fields; cooperation with Department as to aviation facilities.

~~The Commonwealth Transportation Board~~ *Department of Transportation* is authorized to build roads to airports and landing fields open to public use, and may pay out of highway funds, *which have been allocated by the Commonwealth Transportation Board*, the cost of such roads. ~~Such Board~~ *The Department of Transportation* may, in cooperation with the Department of Aviation and either on an actual cost or contract basis, construct, maintain and improve airports, landing fields and other aviation facilities licensed for public use, the actual cost thereof to the ~~Commonwealth Transportation Board~~ *Department of Transportation* to be paid by the Department of Aviation.

§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.

A. The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan shall recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

2. The transportation plan shall include a map that shall show road and transportation improvements, including the cost estimates of such road and transportation improvements from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.1-23.03, the Six-Year Improvement Program adopted pursuant to subdivision (9) (7)(b) of § 33.1-12, and the location of routes to be followed by roads comprising systems of state highways pursuant to subdivision (1) of § 33.1-12. The locality shall consult with the Virginia Department of Transportation to assure such consistency is achieved. The transportation plan need reflect only those changes in the annual update of the Six-Year Improvement Program that are deemed to be significant

new, expanded, or relocated roadways.

4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the locality shall submit such plan or amendment to the Department for review and comment. The Department shall conduct its review and provide written comments to the locality on the consistency of the transportation plan or any amendment to the provisions of subdivision 1. The Department shall provide such written comments to the locality within 90 days of receipt of the plan or amendment, or by such deadline as may be otherwise agreed upon by the Department and the locality.

5. The locality shall submit a copy of the adopted transportation plan or any amendment to the transportation plan to the Department for informational purposes. If the Department determines that the transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in accordance with subdivision ~~(9)(f)~~ (7)(e) of § 33.1-12.

6. Each locality's amendments or updates to its transportation plan as required by subdivisions 2 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable ground water protection measures;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers;

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

D. The comprehensive plan shall include the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

§ 22.1-205. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, (v) organ and tissue donor awareness, (vi) fuel-efficient driving practices, and (vii) in Planning District 8, for any student completing a driver education program beginning in academic year 2010 - 2011, an additional minimum 90-minute parent/student driver education component included as part of the in-classroom portion of the driver education curriculum, requiring the participation of the student's parent or guardian and emphasizing parental responsibilities regarding juvenile driver behavior, juvenile driving restrictions pursuant to the Code of Virginia, and the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those

students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

§ 28.2-555. Crossings of Baylor survey.

The ~~Commonwealth Transportation Board~~ *Department of Transportation* may maintain, repair, reconstruct, or replace any existing crossings of the Baylor survey. Such authorization is granted for any Baylor survey crossing determined by the ~~Commonwealth Transportation Board~~ to be necessary across the Hampton Roads from Newport News to Portsmouth, across the Elizabeth River at Norfolk, and construction parallel to an existing crossing of the James River from Newport News to Isle of Wight County.

§ 33.1-7. Offices.

The main office of the Board, *the Department of Transportation, and the Department of Rail and Public Transportation* shall be located in the City of Richmond. In the discretion of the ~~chairman~~ *Commissioner of Highways*, other offices of *the Department of Transportation* may be established in the various construction districts of the Commonwealth as may be necessary or needful to carry out the provisions of this title.

§ 33.1-11. Defense of employees.

If any person employed by the Commonwealth Transportation Board, *the Department or the Director of the Department of Rail and Public Transportation* shall be arrested or indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, *the Commissioner of Highways or the Director of the Department of Rail and Public Transportation* may employ special counsel approved by the Attorney General to defend such employee. The compensation for special counsel employed, pursuant to this section, shall, subject to the approval of the Attorney General, be paid *by the agency for which the employee works* out of the funds appropriated for the administration of the ~~Commonwealth Transportation Board~~ *Department of Transportation or the Department of Rail and Public Transportation*.

§ 33.1-12. General powers and duties of Board, etc.; definitions.

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems, except that such routes shall not include roads located within any local system of roads, within the urban system of highways, or those local roads in any county that has resumed full responsibility for all of the secondary system of highways within such county's boundaries pursuant to § 33.1-84.1. Such routes shall include corridors of statewide significance pursuant to § 33.1-23.03.

(2) Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.

(a) To let all contracts to be administered by the Virginia Department of Transportation or the

Department of Rail and Public Transportation for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways shall have authority to let all Virginia Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrence of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrence of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

(c) ~~For transportation construction projects valued in excess of \$100 million, the Commonwealth Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an implementation plan with the project schedule and cost-to-complete information presented for each year; (iii) identified revenues by funding source available each year to meet project costs; (iv) a detailed cash-flow analysis for each year of the proposed project; and (v) efforts to be made to ensure maximum involvement of private enterprise and private capital.~~

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

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

(4) Naming highways, bridges, interchanges, and other transportation facilities. To give suitable names to state highways, bridges, interchanges, and other transportation facilities, and change the names of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of state highways. The name of private entities, as defined in § 56-557, located within the Commonwealth shall not be used for such purposes unless such private entity pays to the Department of Transportation an annual naming rights fee as determined by the Board. The Department of Transportation shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the Board or by the General Assembly. The costs of producing, placing, and maintaining these signs shall be paid by the counties, cities, and towns in which they are located or by the private entity whose name is attached to the highway, bridge, interchange, or other transportation facility. No name shall be given to any state highway, bridge, interchange, or other transportation facility by the Commonwealth Transportation Board unless and until the Commonwealth

Transportation Board shall have received from the local governing body of the locality within which a portion of the facility to be named is located a resolution of that governing body requesting such naming, except in such cases where a private entity has requested such naming. No highway, bridge, interchange, or other transportation facility previously named by the Board or the General Assembly shall be eligible for renaming by a private entity, unless such naming incorporates the previous name. The Board shall develop and approve guidelines governing the naming of highways, bridges, interchanges, and other transportation facilities by private entities and the applicable fees for such naming rights. Such fees shall be deposited in the Highway Maintenance and Operating Fund.

No name shall be eligible for the naming rights under this subdivision if it in any way reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is socially, racially, or ethnically offensive or disparaging.

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

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

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

(8) Cooperation with other agencies and local governments.

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

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

(9) (7) Transportation.

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

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

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

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

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

(f) (e) To integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.1-223.2:25 is not consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.1-23.03, the Six-Year Improvement Program adopted pursuant to subdivision (9) (7)(b), and the location of routes to be followed by roads comprising systems of state highways pursuant to subdivision (1), the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. If a locality or metropolitan planning organization requests the termination of a project or does not advance a project to the next phase of construction when requested by the Board and the Department of Transportation has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for all funds expended on the project. If a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for the additional project costs above the original estimates for making such alterations.

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

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

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

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

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

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

(16) Subject to compliance with applicable federal regulations, the Commonwealth Transportation Board shall establish a plan for identification and acquisition of rights-of-way that may be needed within the corridors designated on the Statewide Transportation Plan.

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

§ 33.1-13.05. Gathering and reporting of information and statistics.

The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or

behind schedule; (vi) the name of the prime contractor; (vii) total expenditures of federal transportation funds in each county and city; (viii) total expenditures of state transportation funds in each county and city; (ix) statewide totals for federal, state, and local funds expended for highways; (x) statewide totals for federal, state, and local funds expended for transit; (xi) total funds expended on intercity passenger and freight rail line and trains; and (xii) total funds expended in each federal and state programmatic category. Use of one or more Internet websites may be used to satisfy this requirement. Project-specific information posted on the Internet shall be updated daily as information is available.

§ 33.1-23.03:7. Liability exemption of officers and employees.

When investments are made in accordance with this section, no Board member ~~or~~, Board employee ~~thereof~~, Department of Transportation employee, Department of Rail and Public Transportation employee, or treasury official shall be personally liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance.

§ 33.1-23.5:3. Financial plans for transportation construction projects.

For transportation construction projects valued in excess of \$100 million, the Commissioner shall require that a financial plan be prepared and presented to the Commonwealth Transportation Board for its review. This plan shall include, but not be limited to, the following: (i) a complete cost estimate for all major project elements, (ii) an implementation plan with the project schedule and cost-to-complete information presented for each year, (iii) identified revenues by funding source available each year to meet project costs, (iv) a detailed cash-flow analysis for each year of the proposed project, and (v) efforts to be made to ensure maximum involvement of private enterprise and private capital.

§ 33.1-61. Parallel service roads; standards for access, service, etc., roads.

The ~~Board~~ Department may construct service roads parallel to a limited access highway in order to provide access at designated points for property owners abutting on the limited access highway and after the construction of such service roads shall maintain and regulate traffic over them.

The construction or alteration of any access, feeder or service road which is to serve properties isolated by construction of a limited access highway shall meet all minimum state standards or the standards of the cities or towns of more than 3,500 population, or of counties which maintain their own road networks, as provided for by ordinance, whichever is more strict.

§ 33.1-89.3. Plans for acquisition of rights-of-way.

Subject to compliance with applicable federal regulations, the Commissioner shall establish a plan for identification and acquisition of rights-of-way that may be needed within the corridors designated on the Statewide Transportation Plan.

§ 33.1-183.1. Authority to lease or convey airspace; terms of lease or conveyance; advertisement and bids; disposition of compensation for lease or conveyance.

The ~~Board~~ Commissioner of Highways may lease or sell and convey the airspace superjacent or subjacent to any highway in this Commonwealth which is within ~~its~~ his jurisdiction and in which the Commonwealth owns fee simple title after satisfying itself that use of the airspace will not impair the full use and safety of the highway or otherwise interfere with the free flow of traffic thereon and it cannot be reasonably foreseen as needed in the future for highway and other transit uses and purposes. ~~It~~ The Commissioner of Highways may provide in such leases and conveyances of airspace for columns of support, in fee or otherwise, ingress, egress and utilities.

No lease or conveyance shall be entered into by the ~~Board~~ Commissioner of Highways until after the time the county, city or town, by action of its governing body by majority recorded vote, approves the projected use and has zoned the airspace in question or has otherwise taken such steps as it deems proper to regulate the type and use of the improvements to be erected in such airspace.

All leases and conveyances shall contain those terms deemed necessary by the ~~Board~~ Commissioner of Highways to protect the interests of the Commonwealth and the public and shall not be entered into until after public advertising for bids for such airspace. The ~~Board~~ Commissioner of Highways shall advertise for bids at least ~~fourteen~~ 14 days prior to the execution of a lease or a conveyance. The advertisement shall state the place where bidders may examine a map of the airspace, the general terms of the lease or conveyance and the time and place when bids will be opened by the ~~Board~~ Commissioner of Highways. The highest bid from a responsible bidder, in the sole discretion of the ~~Board~~ Commissioner of Highways, shall be accepted; however the ~~Board~~ Commissioner of Highways may reject all bids and advertise the property again.

Compensation paid for such leases and conveyances shall be credited to the fund for highway maintenance and construction.

§ 33.1-190.4. Liaison duties with other organizations.

Tasks and responsibilities concerning transportation program or project delivery shall be carried out as follows:

(1) The Commissioner shall cooperate with the federal government, the American Association of State Highway and Transportation Officials, and any other organization in the numbering, signing, and marking of highways; in the taking of measures for the promotion of highway safety; in research activities; in the preparation of standard specifications; in the testing of highway materials; and otherwise with respect to transportation projects.

(2) *The Department of Transportation and the Department of Rail and Public Transportation may offer technical assistance and coordinate state resources, as available, to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.*

§ 33.1-195. Sale of materials to, and use of equipment by, cities, towns, counties, and school boards.

The ~~Board~~ *Department* may lend or rent equipment and sell materials and supplies used in the building or repairing of roads and streets to any city, town, county, or school board, upon such terms and conditions as may be agreed upon by the ~~Board~~ *Department* and such city, town, county, or school board. Provided the governing body of such city, town, county, or school board submits to the ~~Board~~ *Department* a certificate setting forth that the material or equipment cannot be furnished from private sources within a reasonable time. Provided, further, that the foregoing proviso shall not apply to towns with a population of less than 3,500 inhabitants or to the purchase of paint for traffic marking purposes by any city, town, county, or school board.

§ 33.1-196. Oiling of highways.

The ~~Commonwealth Transportation Board~~ *Department* may oil the highways in any town in this Commonwealth upon request of the council thereof and may oil the highways in any county of this Commonwealth, the secondary roads within which are not a part of the secondary system of state highways, upon request of the board of supervisors or other governing body thereof; provided that such council or such board of supervisors or other governing body, as the case may be, shall pay to the ~~Commonwealth Transportation Board~~ *Department* the cost of such oiling. This section does apply to any highway which is a part of the State Highway System or the secondary system of state highways.

§ 33.1-201. Improving certain private roads and certain town streets and roads.

The Commissioner of Highways may, in his discretion, upon the request of the board of supervisors or other governing body of any county and at the expense of the owner of the land, improve private roads giving direct access from the home or other central buildings on the property along the shortest practical route to the nearest public highway; provided, however, that:

(1) The Commissioner shall in no case undertake any such work until certification is made by the board of supervisors or other governing body that the property owner cannot secure the services of a private contractor to perform the work nor then until the owner has deposited with him a certified check in the amount estimated by the Commissioner as the cost of the work;

(2) Not more than \$1,000 shall be expended on any one such private project in any one year;

(3) No work of ordinary maintenance shall be done on any such private road under the provisions of this section.

And the Commissioner may, upon the request of the council of any town having a population of less than 1,500 and at the expense of such town, improve and maintain any streets or roads therein not in the State Highway System. As to streets and roads in such town, no certification by the board of supervisors or deposit shall be necessary.

Any work done by the Commissioner pursuant to the provisions of this section shall only be done with the equipment and employees of the ~~Commonwealth Transportation Board~~ *Department of Transportation*.

§ 33.1-207. Facilities for persons desiring to fish from bridges.

The ~~Commonwealth Transportation Board~~ *Department* may, in its discretion, upon the request in writing of any department or agency of the Commonwealth, construct and maintain, on or in connection with any bridges which now constitute a part of any system of state highways, such platforms, walkways or other facilities as may be necessary or proper for the safety and convenience of persons who desire to fish therefrom, the cost thereof to be paid out of funds furnished by the department or agency making the request from its own funds or funds furnished to such department or agency by gift from private sources. The Department of Transportation shall not be held responsible for damage caused by the construction or use of such facilities.

§ 33.1-208. Use of streams and lowlands obstructed by newly constructed highways as fishponds or water storage areas.

Whenever any highway is being constructed and the highway is to pass over any stream or lowland the obstruction of which is necessary to such construction or if the present highway construction can be utilized to provide a suitable dam for a fishpond or water storage area, then upon application of the adjacent property owner requesting that it be so used, the ~~Commonwealth Transportation Board~~ *Department* may permit such use, provided that such dam should be subject to the provisions of Article 14 (§ 33.1-176 et seq.) of this chapter, and any additional cost incurred thereby shall be borne by such property owner.

§ 33.1-229. Continuance of powers of county authorities; alternative procedure.

The local road authorities shall continue to have the powers vested in them on June 20, 1932, for the establishment of new roads in their respective counties, which shall, upon such establishment, become parts of the secondary system of state highways within such counties. They shall likewise have the power to alter or change the location of any road now in the secondary system of state highways within such counties or which may hereafter become a part of the secondary system of state highways within

such counties. The Commissioner of Highways shall be made a party to any proceeding before the local road authorities for the establishment of any such road or for the alteration or change of the location of any such road. When any such board or commission appointed by the board of supervisors or other governing body of a county to view a proposed road or to alter or change the location of an existing road shall award damages for the right-of-way for the same, in either case to be paid in money, it may be paid by the board of supervisors or other governing body of the county out of the general county levy funds. No expenditure by the Commonwealth shall be required upon any new road so established or any old road the location of which is altered or changed by the local road authorities, except as may be approved by the Commissioner. If the property sought to be taken is for the easement or right-of-way, the plat shall reasonably indicate thereon any appurtenant right-of-way or easement for ingress and egress to and from the principal easement or right-of-way being taken.

As an alternative to the method of establishing or relocating a road provided in the preceding paragraph, the Commissioner, by and with the approval of the Commonwealth Transportation Board and the board of supervisors or other governing body of a county shall have power and authority to make such changes in routes in, and additions to, the secondary system of state highways from time to time as the public safety or convenience may require.

The service of any process or notice in any such proceedings upon the district ~~engineer~~ *administrator* of the Department of Transportation having the supervision of maintenance and construction of highways in any such county shall be termed sufficient service on the Commissioner.

§ 33.1-293. Revenue refunding bonds and revenue bonds for combined purposes.

Notwithstanding any of the other provisions of this article and without regard to any other restrictions or limitations contained in this article, the Board is hereby authorized to provide by resolution (a) for the issuance of revenue refunding bonds of the Commonwealth for the purpose of refunding any revenue bonds issued under the provisions of this article and then outstanding, including interest to the earliest call date of such outstanding bonds and premiums, if any, payable on such call date, and (b) for the issuance of a single issue of revenue bonds of the Commonwealth for the combined purpose of providing funds (i) to pay the cost of either or both of the projects described in paragraphs (b) and (j) of subdivision (2) of § 33.1-268 of this article in event the Board has decided or shall decide to construct either or both of said projects under authority heretofore granted, and (ii) to refund revenue bonds of the Commonwealth theretofore issued under the provisions of this article and then outstanding, including interest to the earliest call date of such outstanding bonds and premiums, if any, payable on such call date. For the purposes of this section, the word "project" shall, in relation to the project described in said paragraph (j), include approach highways thereto and bus facilities for the transportation of passengers through or over said project if the Board shall deem it advisable to construct such approach highways or acquire such bus facilities; and the term "cost of the project" shall, in relation to the projects described in said paragraphs (b) and (j), include an amount sufficient to reimburse the Board for expenditures or advances theretofore made by the Board on account of the cost of either or both of said projects, and shall, in relation to the project described in said paragraph (j), include provision of a sum, deemed by the Board to be sufficient for the purpose, to be utilized by the Board for the payment of employment severance benefits to employees of the Board *or the Department* rendering services in connection with the projects mentioned in paragraphs (g) and (i) of subdivision (2) of said § 33.1-268 and shall include the cost of constructing approach highways and of providing bus facilities if the Board shall deem it expedient to construct such approach highways or acquire such facilities as a part of the project described in said paragraph (j). In the event bonds shall be issued for the combined purpose set forth in clause (b) of this section, such amount of the proceeds of such bonds as may be required, together with other funds available for such purpose, for the redemption of the outstanding bonds to be refunded shall be deposited by the Board in trust with the trustee under the trust indenture securing such outstanding bonds for the sole and exclusive purpose of paying and redeeming such bonds, and the balance of such proceeds shall be used solely for the payment of the cost of the project or projects to be constructed.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the Commonwealth and of the Board in respect to the same shall be governed by the foregoing provisions of this article insofar as the same may be applicable.

§ 33.1-342. Certificate to be filed with bid for highway or bridge construction, etc.

Every individual, partnership or corporation bidding upon any proposed contract for the construction, repair or maintenance of any part of any public highway or bridge and for supplying any labor, material or supplies to be used in any such construction, repair or maintenance shall file with such bid a sworn statement giving the name and location of the principal office of every highway contractors' association of which he is or has been a member during the preceding twelve months; and no bid not accompanied by such certificate shall be considered by the Commonwealth Transportation Board *or the Commissioner of Highways* in letting any contract bid upon, nor shall any such contract be let by the Board *or the Commissioner of Highways* to any bidder failing to file the certificate required by this section.

§ 33.1-343. Affidavit to be filed with bid upon work.

Every member of any highway contractors' association who bids upon any work let by the

Commonwealth Transportation Board *or the Commissioner of Highways* shall file with his bid an affidavit in substance as follows: that the bidder neither directly or indirectly has entered into any combination or arrangement with any person, firm or corporation or entered into any agreement, the effect of which is to prevent competition or increase the cost of construction or maintenance of roads or bridges.

The Commonwealth Transportation Board *or the Commissioner of Highways* shall prescribe the form of this affidavit and no bid shall be accepted unless accompanied by such affidavit.

§ 33.1-370. Special provisions pertaining to interstate, national highway system, and federal-aid primary highways.

A. Notwithstanding the territorial limitation set out in § 33.1-353, no sign or advertisement adjacent to any interstate, national highway system, or federal-aid primary highway shall be erected, maintained or displayed which is visible from the main traveled way within 660 feet of the nearest edge of the right-of-way, except as provided in subsections B and D of this section, and outside of an urban area no sign or advertisement beyond 660 feet of the nearest edge of the right-of-way of any interstate, national highway system, or federal-aid primary highway which is visible from the main traveled way shall be erected, maintained, or displayed with the purpose of its message being read from the main traveled way, except as set forth in subsection C.

B. The following signs, advertisements or advertising structures may be erected, maintained and displayed within 660 feet of the right-of-way of any interstate, national highway system, or federal-aid primary highway:

Class 1 - Official signs. - Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to the availability of food, lodging, vehicle service and tourist information, natural wonders, scenic areas, museums and historic attractions, as authorized or required by law; however, where such signs or notices pertain to facilities or attractions which are barrier free, such signs or notices shall contain the International Barrier Free Symbol. The Commonwealth Transportation Board shall determine the type, lighting, size, location, number, and other requirements of signs of this class.

Class 2 - On-premises signs. - Signs not prohibited by other parts of this article which are consistent with the applicable provisions of this section and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located; provided, that any such signs, which are located adjacent to and within 660 feet of any interstate highway and do not lie in commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or in areas where land use as of September 21, 1959, was clearly established by state law as industrial or commercial, shall comply with the following requirements:

1. Not more than one sign advertising the sale or lease of the same property may be erected or maintained in such manner as to be visible to traffic proceeding in any one direction on any one interstate highway;

2. Not more than one sign, visible to traffic proceeding in any one direction on any one interstate highway and advertising activities being conducted upon the real property where the sign is located, may be erected or maintained more than fifty feet from the advertised activity, and no such sign may be located more than 250 feet from the center of the advertised activity; and

3. No sign, except one which is not more than fifty feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, shall be erected or maintained unless the name of the advertised activity is displayed as conspicuously as such trade name.

Class 3 - Other signs. - Any signs or advertisements which are located within areas adjacent to any interstate, national highway system, or federal-aid primary highway which are zoned industrial or commercial under authority of state law, or in unzoned commercial or industrial areas as determined by the Commonwealth Transportation Board from actual land uses. The Commonwealth Transportation Board shall determine the size, lighting and spacing of signs of this class, provided that such determination shall be no more restrictive than valid federal requirements on the same subject.

C. The following signs, advertisements or advertising structures may be erected, maintained and displayed beyond 660 feet of the right-of-way of any interstate, national highway system, or federal-aid primary highway outside of urban areas.

1. Class 1 and Class 2 signs, advertisements or advertising structures set forth in subsection B of this section.

2. All other signs, advertisements or advertising structures erected, maintained or displayed more than 660 feet from the nearest edge of the right-of-way of an interstate, national highway system, or federal-aid primary highway; unless said sign or advertisement is visible from the main traveled way of said highways and erected, maintained or displayed with the purpose of its message being read from the main traveled way of said highways.

In determining whether a sign, advertisement or advertising structure is "erected, maintained or displayed with the purpose of its being read" the Commissioner is not limited to, but will consider, the nature of the business or product advertised thereon, the availability of such business or product to users

of the controlled highway, the visibility of the sign, advertisement or advertising structure from the main traveled way of the controlled highway (such visibility may be measured by considering the size or height of the sign, advertisement or advertising structure; the configuration, size, and height of recognizable emblems, images, and lettering thereon; the angle of the sign, advertisement or advertising structure to the main traveled way of the controlled highway; the degree to which physical obstructions hinder the view of the sign, advertisement or advertising structure from the main traveled way of the controlled highway; and the time which such sign, advertisement or advertising structure is exposed to view by travelers on the main traveled way of the controlled highway traveling at the maximum and minimum speeds posted).

D. In order to provide information in the specific interest of the traveling public, the ~~Commonwealth Transportation Board~~ *Department* is hereby authorized to maintain maps and to permit informational directories and advertising pamphlets to be made available at rest areas, and to establish information centers at rest areas for the purpose of informing the public of places of interest within the Commonwealth and providing such other information as may be considered desirable.

E. Notwithstanding any other provision of law, lawfully erected and maintained nonconforming signs, advertisements, and advertising structures shall not be removed or eliminated by amortization under state law or local ordinances without compensation as described in subsection F of this section.

F. The Commissioner of Highways is authorized to acquire by purchase, gift or the power of eminent domain and to pay just compensation upon the removal of nonconforming signs, advertisements or advertising structures lawfully erected and maintained under state law or state regulations. Provided, however, subsequent to November 6, 1978, whenever any local ordinance which is more restrictive than state law requires the removal of such signs, advertisements, or advertising structures, the local governing body shall initiate the removal of such signs, advertisements, or advertising structures with the Commissioner, who shall have complete authority to administer the removal of such signs, advertisements, or advertising structures. Upon proof of payment presented to the local governing bodies, the local governing bodies shall reimburse the Commissioner the funds expended which are associated with the removal of such signs, advertisements, or advertising structures required by local ordinances, less any federal funds received for such purposes. Notwithstanding the above, nothing shall prohibit the local governing bodies from removing signs, advertisements, or advertising structures which are made nonconforming solely by local ordinances so long as those ordinances require the local governing bodies to pay 100 percent of the cost of removing them and just compensation upon their removal.

Such compensation is authorized to be paid only for the taking from the owner of such sign or advertisement of all right, title, leasehold and interest in such sign or advertisement, and the taking from the owner of the real property on which the sign or advertisement is located, of the right to erect and maintain such sign or advertisement thereon.

The Commissioner of Highways shall not be required to expend any funds under this section unless and until federal-aid matching funds are made available for this purpose.

§ 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.

A. The Building Code shall be applicable to all state-owned buildings and structures, and to all buildings and structures built on state-owned property, with the exception that §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned building or structure, or building or structure built on state-owned property, for which preliminary plans were prepared or on which construction commenced after the initial effective date of the Uniform Statewide Building Code, shall remain subject to the provisions of the Uniform Statewide Building Code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of the Building Code.

Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for any state-owned buildings or structures and for all buildings and structures built on state-owned property. The Department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It may provide for the (i) inspection of state-owned buildings or structures and for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code and standards for access by the physically handicapped by delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the Department of General Services. The Department of General Services may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering

or overruling any decision of a local building department, the Department of General Services shall provide the local building department with a written summary of its reasons for doing so.

B. Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels and bridges owned by the Department of Transportation shall be exempt from the Building Code and the Statewide Fire Prevention Code Act (§ 27-94 et seq.). The Department of General Services shall not have jurisdiction over such roadway tunnels, bridges, and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to the Building Code.

Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Department of Transportation in consultation with the State Fire Marshal and approved by the Commonwealth Transportation Board. Emergency response planning and activities related to the standards approved by the Commonwealth Transportation Board shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency services providers. On an annual basis the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

C. Except as provided in subsection D of § 23-38.109, and notwithstanding the provisions of subsection A, at the request of a public institution of higher education, the Department, as further set forth in this subsection, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.). The Department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this subsection to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in subsection B of § 23-38.88.

D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a public service company, a certificated provider of telecommunications services, or a franchised cable operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation Board.

§ 46.2-804. Special regulations applicable on highways laned for traffic.

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

1. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing, shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section;

2. A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely;

3. Except as otherwise provided in subdivision 5 of this section, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn or unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device;

4. The Commonwealth Transportation Board Commissioner of Highways, or local authorities in their respective jurisdictions, may designate right lanes for slow-moving vehicles and the Virginia Department of Transportation shall post signs requiring trucks and combination vehicles to keep to the right on Interstate Highway System components with no more than two travel lanes in each direction where terrain is likely to slow the speed of such vehicles climbing hills and inclines to a speed that is less than the posted speed limit;

5. Wherever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line, but it shall be lawful to make a left turn for the purpose of entering or leaving a public, private, or commercial road or entrance. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left-turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet;

6. Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid lines, no vehicle shall be driven to the left of such lines, except when turning left.

§ 46.2-806. One-way roadways and highways.

The Commonwealth Transportation Board Commissioner of Highways may designate any highway or

any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs. Traffic thereon shall move only in the direction designated.

§ 46.2-830. Uniform marking and signing of highways; drivers to obey signs; enforcement of section.

The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* may classify, designate, and mark state highways and provide a uniform system of marking and signing such highways under the jurisdiction of the Commonwealth. Such system of marking and signing shall correlate with and, so far as possible, conform to the system adopted in other states.

All drivers of vehicles shall obey lawfully erected signs.

No provision of this section relating to the prohibition of disobeying signs or violating local traffic signals, markings, and lights shall be enforced against an alleged violator if, at the time and place of the alleged violation, any such sign, signal, marking, or light is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

§ 46.2-831. Unofficial signs prohibited; penalties.

No unauthorized person shall erect or maintain on any highway any warning or direction sign, signal, or light in imitation of any official sign, signal, or light erected as provided by law. No person shall erect or maintain on any highway any traffic or highway sign or signal bearing any commercial advertising.

Nothing in this section shall prohibit the erection or maintenance of signs or signals bearing the name of an organization authorized to erect it by the Commonwealth Transportation Board, *the Department of Transportation*, or by the local authorities of counties, cities, and towns as provided by law. Nor shall this section be construed to prohibit the erection by contractors or public utility companies of temporary signs approved by the Virginia Department of Transportation warning motorists that work is in progress on or adjacent to the highway.

Any violation of this section shall constitute a Class 4 misdemeanor.

§ 46.2-847. Left turns by bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds.

A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped and intending to turn left shall either follow a course described in § 46.2-846 or make the turn as provided in this section.

A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped and intending to turn left shall approach the turn as close as practicable to the right curb or edge of the roadway. After proceeding across the intersecting roadway, the rider shall comply with traffic signs or signals and continue his turn as close as practicable to the right curb or edge of the roadway being entered.

Notwithstanding the foregoing provisions of this section, the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* and local authorities, in their respective jurisdictions, may cause official traffic control devices to be placed at intersections to direct that a specific course be traveled by turning bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds. When such devices are so placed, no person shall turn a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped other than as directed by such devices.

§ 46.2-878.2. Maximum speed limits in certain residence districts of counties, cities, and towns; penalty.

Operation of any motor vehicle in excess of a maximum speed limit established for a highway in a residence district of a county, city, or town, when indicated by appropriately placed signs displaying the maximum speed limit and the penalty for violations, shall be unlawful and constitute a traffic infraction punishable by a fine of \$200, in addition to other penalties provided by law. No portion of the fine shall be suspended unless the court orders 20 hours of community service. The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* or any local governing body having jurisdiction over highways shall develop criteria for the overall applicability for the installation of signs. Such criteria shall not exclude highways, functionally classified as minor arterials, serving areas that either (i) were built as residential developments or (ii) have grown to resemble residential developments, provided, in either case, (i) (a) such highways are experiencing documented speeding problems and (ii) (b) the local governing body requests the application of this section to such highway. Such signs may be installed in any town and shall not require the approval of the county within which such town is located. Any such signs installed in any town shall be paid for by the town requesting the installation of the signs, or out of the county's secondary system construction allocation.

§ 46.2-889. Location of parked vehicles.

No vehicle shall be stopped except close to and parallel to the right edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left curb or edge of the roadway on one-way streets or may be parked at an angle where permitted by the Commonwealth Transportation Board, *the Department*, or local authorities with respect to highways under their jurisdiction.

§ 46.2-924. Drivers to stop for pedestrians; installation of certain signs; penalty.

A. The driver of any vehicle on a highway shall yield the right-of-way to any pedestrian crossing

such highway:

1. At any clearly marked crosswalk, whether at mid-block or at the end of any block;
2. At any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block;
3. At any intersection when the driver is approaching on a highway or street where the legal maximum speed does not exceed 35 miles per hour.

B. Notwithstanding the provisions of subsection A, at intersections or crosswalks where the movement of traffic is being regulated by law-enforcement officers or traffic control devices, the driver shall yield according to the direction of the law-enforcement officer or device.

No pedestrian shall enter or cross an intersection in disregard of approaching traffic.

The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.

Pedestrians crossing highways at intersections shall at all times have the right-of-way over vehicles making turns into the highways being crossed by the pedestrians.

C. The governing body of Arlington County, Fairfax County, Loudoun County and any town therein, the City of Alexandria, the City of Fairfax, and the City of Falls Church may by ordinance provide for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to pedestrians crossing or attempting to cross the highway. Any operator of a motor vehicle who fails at such locations to yield the right-of-way to pedestrians as required by such signs shall be guilty of a traffic infraction punishable by a fine of no less than \$100 or more than \$500. The ~~Commonwealth Transportation Board~~ *Department of Transportation* shall develop criteria for the design, location, and installation of such signs. The provisions of this section shall not apply to any limited access highway.

§ 46.2-1041. Restrictions as to solid rubber tires.

Every tire, other than a pneumatic tire, made of rubber on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. No vehicle equipped with such tires shall be operated on any highway in the Commonwealth unless a permit therefor is first secured from the ~~Commonwealth Transportation Board~~ *Department of Transportation*.

§ 46.2-1046. Traction engines and tractors.

The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation on a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks.

§ 46.2-1107. Bus widths in certain counties.

Upon application by the governing body of any county, the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* may permit within that county the operation of passenger buses wider than 96 inches but no wider than 102 inches.

§ 46.2-1108. Bus widths to comply with federal law.

If federal law permits the operation of passenger buses wider than 96 inches on the interstate highway system, the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* may permit the operation of passenger buses of a total outside width, excluding the mirror required by § 46.2-1082, of more than 96 inches, but not exceeding more than 102 inches, on interstate and defense highways or any other four lane divided highways under the jurisdiction of the Commonwealth Transportation Board. The use of any other state highways between the aforesaid highways and the passenger bus terminals may be permitted upon application to the ~~Board~~ *Commissioner of Highways* by the governing body of any county, city, or town in which such other highways are located. Any such increase in width of passenger buses or designation of highways to be used by them shall not exceed the federal law which may hereafter be adopted, or jeopardize the Commonwealth's allotment of or qualification for federal aid highway funds.

§ 46.2-1109. Widths of commercial vehicles.

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

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

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

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

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

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

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

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

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

§ 46.2-1114. Length of automobile or watercraft transporters; operation on certain highways.

Automobile or watercraft transporters shall not exceed a length of ~~sixty-five~~ 65 feet when operated on any interstate highway or on any highway as designated by the Commonwealth Transportation Board. Stinger-steered automobile or watercraft transporters shall not exceed a length of ~~seventy-five~~ 75 feet when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board. In addition, watercraft may be transported on a truck/trailer combination no more than ~~sixty-five~~ 65 feet long when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board. Any such vehicle shall display a sign of a size and type approved by the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* warning that the vehicle is an over-length vehicle. However, an additional three-foot overhang shall be allowed beyond the front and a four-foot overhang shall be allowed beyond the rear of the vehicle. Such combinations shall have reasonable access to terminals, facilities for food, fuel, repairs, and rest as designated by the ~~Commonwealth Transportation Board~~ *Commissioner of Highways*.

§ 46.2-1116. Vehicles having more than one trailer, etc., attached thereto; exceptions.

Except as provided in this section and § 46.2-1117, no motor vehicle shall be driven on a highway while drawing or having attached thereto more than one motor vehicle, trailer, or semitrailer unless such vehicle is being operated under a special permit from the ~~Commonwealth Transportation Board~~ *Commissioner of Highways*. This limitation, however, shall not apply between sunrise and sunset to farm trailers or semitrailers being moved from one farm to another farm owned or operated by the same person within a radius of 10 miles. This limitation also shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a drive-away service

when not more than two saddle mounts are used. Vehicles coupled together by not more than three saddle mounts shall not exceed 75 feet when operated on any primary highway as designated by the Commonwealth Transportation Board and shall not exceed 97 feet when operated on the National Network of interstate and primary highways as designated under 23 CFR 658.5, as amended. Use of saddle mounts as provided in this section shall be in conformity with safety regulations adopted by the federal Department of Transportation.

The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* shall designate reasonable access to terminals and facilities for food, fuel, repairs, and rest.

The governing body of any city may by ordinance permit motor vehicles to be driven on the highways of their respective cities while drawing or having attached thereto more than one other vehicle, trailer, or semitrailer.

§ 46.2-1117. Tractor truck semitrailer combinations operating on certain highways; access to certain facilities.

A tractor truck semitrailer combination may draw one trailer when operating on any interstate highway and any highway as designated by the Commonwealth Transportation Board. The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* shall designate reasonable access to terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for carriers of household goods.

§ 53.1-56. Construction and maintenance of highways; grass cutting; acquisition of quarries, etc.; use of materials for county roads.

Persons sentenced to the Department shall, so far as practicable, be employed in the construction and maintenance of the State Highway System and secondary system of state highways, and to this end may be used in rock quarries, gravel pits and other plants in the preparation of materials for construction and maintenance of roads and in the maintenance of any or all medians and other nontraveled portions of such highways. Persons sentenced to the Department may also be employed in the maintenance of the rest areas along the Interstate Highway System, providing that such maintenance activities are jointly approved by the Department and the Virginia Department of Transportation based on the safety of the traveling public.

The Commonwealth Transportation Board may acquire out of the proceeds of the money, now or hereafter available for construction and maintenance of the State Highway System and secondary system, such quarries, gravel pits or plants as may in its opinion be necessary for such work. The Board shall on the request of any county road authorities allow such county road authorities to take from such quarries or gravel pits or shall sell to such county road authorities at cost of production such materials as may be required to be used for the construction and maintenance of county roads. This arrangement shall in no way interfere with the furnishing of materials by the Board for the maintenance or construction of the State Highway System and secondary system.

The ~~Commonwealth Transportation Board~~ *Department of Transportation* shall make requisition from time to time upon the Director for the number of prisoners it deems necessary for the work on the State Highway System or secondary system or for the preparation of road material for road construction and maintenance, in the maintenance of any or all medians and other nontraveled portions of such highways, and in the maintenance of the rest areas along the Interstate Highway System. The number of prisoners so requisitioned shall be furnished subject to availability as determined by the Director of the Department of Corrections.

Fifteen days prior to a prisoner's participation in the program, the Director shall give the chief of police, sheriff or local chief law-enforcement official of the locality in which the prisoner will work, notice of the prisoner's participation. Such notice shall include the name, address and criminal history of the prisoner, in addition to other information the chief of police or such officer may request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 53.1-57. Payments by Department of Transportation to Director for labor.

The ~~Commonwealth Transportation Board~~ *Department of Transportation* shall pay to the Director monthly for the hours prisoners are employed on the state highway primary system and secondary system and work incidental thereto, an amount agreed upon by the Department of Corrections and the Department of Transportation. Monthly payments by the ~~Board~~ *Department* to the Director shall be made not later than the fifteenth day of the succeeding month after the work or labor has been performed for the ~~Board~~ *Department*.

§ 56-258. Who to permit laying of pipelines in roads.

The ~~Commonwealth Transportation Board~~ *Commissioner of Highways* or the board of supervisors or other governing body in any county that has withdrawn its county roads from the secondary system of state highways is authorized to enter into contract with water companies or other corporations or persons to lay water pipelines along the rights-of-way of public roadways and turnpikes. Such water pipelines shall be laid in such manner as not to obstruct passage thereon when completed, and in any such contract the ~~Commonwealth Transportation Board~~ *Commissioner of Highways* or any such board of supervisors or other governing body, as the case may be, shall provide that the parties so laying such

pipelines shall, at all times, exercise reasonable care not to obstruct such roadways while laying, repairing or replacing such pipe.

§ 56-462. Franchise to occupy parks, streets, etc.; imposition of terms, conditions, etc., as to use of streets, etc., and construction thereon.

A. No incorporated city or town shall grant to any such telegraph or telephone corporation the right to erect its poles, wires, or cables, or to lay its conduits upon or beneath its parks, streets, avenues, or alleys until such company shall have first obtained, in the manner prescribed by the laws of this Commonwealth, the franchise to occupy the same. Any city or town may impose upon any such corporation any terms and conditions consistent herewith and supplemental hereto, as to the occupation and use of its parks, streets, avenues, and alleys, and as to the construction and maintenance of the facilities of such company along, over, or under the same, that the city or town may deem expedient and proper. The ~~Commonwealth Transportation Board~~ *Department of Transportation* may also impose upon any such company any terms, rules, regulations, requirements, restrictions and conditions consistent herewith and supplemental hereto, as to the occupation and use of roads and streets in either state highway system, and as to the construction, operation or maintenance of the works along, over, or under the same, which the ~~Board~~ *Department* may deem expedient and proper, but not in conflict, in incorporated cities and towns, with any vested contractual rights of any such company with such city or town.

B. No locality or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall impose any fees on a certificated provider of telecommunications service for the use of public rights-of-way except in the manner prescribed in § 56-468.1; however, the provisions of § 56-468.1 shall not apply to providers of commercial mobile radio services.

C. No locality or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall impose on certificated providers of telecommunications service, whether by franchise, ordinance or other means, any restrictions or requirements concerning the use of the public rights-of-way (including but not limited to the permitting process; notice, time and location of excavations and repair work; enforcement of the statewide building code; and inspections), which are (i) unfair or unreasonable or (ii) any greater than those imposed on the following users of the public rights-of-way: all providers of telecommunications services and nonpublic providers of cable television, electric, natural gas, water and sanitary sewer services. For purposes of this subsection, "restrictions or requirements concerning the use of the public rights-of-way" shall not include any existing franchise fee or the Public Rights-of-Way Use Fee.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the ~~Commonwealth Transportation Board~~ *Department of Transportation* of a certificated provider of telecommunications services to use the public rights-of-way shall be granted or denied within ~~forty-five~~ 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. No locality receiving directly or indirectly a Public Rights-of-Way Use Fee or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall require a certificated provider of telecommunications services to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the Public Rights-of-Way Use Fee. This shall not limit the ability of localities, their authorities or commissions which provide utility services, or the ~~Commonwealth Transportation Board~~ *Department of Transportation* to enter into voluntary pole attachment, conduit occupancy or conduit construction agreements with certificated providers of telecommunications service. Any locality, other than a city or town electing to continue to enforce an existing franchise, ordinance or other form of consent under subsection J of § 56-468.1, or the ~~Commonwealth Transportation Board~~ *Department of Transportation* may continue to use pole attachments and conduits utilized as of December 31, 1997. Any pole attachment or conduit occupancy fees for this use shall be waived for facilities in place as of December 31, 1997, and shall be waived for future extensions in cities with populations between 60,000 and 70,000, so long as the locality or the ~~Commonwealth Transportation Board~~ *Department of Transportation* continues to use these facilities on such poles or in such conduits solely for their internal communications needs. The fee waiver is for the occupancy fees only, does not cover any relocation, rearrangement or other make-ready costs, and does not apply to any county, city or town that has obtained a certificate pursuant to § 56-265.4:4.

§ 67-1101. Right to occupy rights-of-way; location of same.

A. Every renewable generator shall have authority to occupy and use the public roads, works, turnpikes, streets, avenues, and alleys in any county, with the consent of the board of supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of the council thereof, and the waterways within the Commonwealth, with the consent of the Marine Resources Commission, for the erection of distribution facilities. However, if the road or street is in the state highway system or the secondary system of state highways, the consent of the board of supervisors or other governing authority of any county shall not be necessary, provided that a permit for such occupation and use is first obtained from the ~~Commonwealth Transportation Board~~ *Department of*

Transportation. The use of any road or street in the state highway system or secondary system of state highways that has been designated a limited access highway in accordance with § 33.1-58 shall not be permitted, unless the ~~Commonwealth Transportation Board~~ *Department of Transportation* approves an exception in accordance with the then current policy.

B. No locality or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall impose any fees on a renewable generator for the use of public rights-of-way except in the manner prescribed in § 67-1103.

C. No locality or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall impose on renewable generators, whether by franchise, ordinance, or other means, any restrictions or requirements concerning the use of the public rights-of-way that are (i) unfair or unreasonable or (ii) any greater than those imposed on providers of electric or natural gas utility service.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the ~~Commonwealth Transportation Board~~ *Department of Transportation* of a renewable generator to use the public rights-of-way shall be granted or denied within 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. No locality receiving directly or indirectly a public rights-of-way use fee or the ~~Commonwealth Transportation Board~~ *Department of Transportation* shall require a renewable generator to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the public rights-of-way use fee.

F. This chapter shall not affect the obligation of the Department of Transportation to give notice, pursuant to § 33.1-223.2:11, to localities when it grants its permission for the construction, installation, location, or placement of a landfill gas pipeline within any highway right-of-way.

§ 67-1103. Public rights-of-way use fee.

A. Notwithstanding any other provisions of law, there is hereby established a public rights-of-way use fee to be charged in lieu of any and all fees of general application, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, otherwise chargeable to a renewable generator by the ~~Commonwealth Transportation Board~~ *Department of Transportation* or a locality in connection with a permit for such occupation and use granted in accordance with § 67-1101 or 67-1102. The public rights-of-way use fee established by this section is imposed on all renewable generators that occupy and use public rights-of-way in order to (i) supply electricity generated at its renewable energy facility to the electric distribution grid, (ii) distribute steam generated at its renewable energy facility to customers, or (iii) supply landfill gas to customers or to a natural gas distribution or transmission pipeline.

B. The amount of the public rights-of-way use fee for a renewable generator shall be \$1,500 per mile or any portion thereof over which the renewable generator has installed distribution facilities.

C. A renewable generator shall remit its required public rights-of-way use fee to the locality or the Department of Transportation, as applicable, prior to initiation of construction, as follows:

1. The renewable generator shall remit directly to the applicable locality all public rights-of-way use fees billed in (i) cities; (ii) towns whose public streets and roads are not maintained by the Department of Transportation; and (iii) any county that has withdrawn or elects to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that has elected not to return.

2. The public rights-of-way use fees in all other counties shall be remitted by each renewable generator to the Department of Transportation, and shall first be used to offset the administrative costs of processing the permit with the remaining fee being added to the secondary system construction improvement program funds of the counties where the facilities are located.

2. That the provisions of this act shall not be construed to invalidate any action taken or approval rendered by the Commonwealth Transportation Board prior to July 1, 2013, and that any and all actions taken and all approvals rendered by the Board prior to July 1, 2013, shall remain valid and in effect unless modified, superseded, or repealed by subsequent action of the Board.