

# VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

## CHAPTER 256

*An Act to amend and reenact §§ 33.2-100, 33.2-321, 33.2-501, 33.2-601, 33.2-612, 33.2-613, 33.2-1024, 33.2-1025, 33.2-1027, 33.2-1230, 33.2-1509, 33.2-1726, 33.2-1915, 33.2-1929, 33.2-2103, 33.2-2205, 33.2-2216, 33.2-2300, 33.2-2915, 33.2-2916, 56-366.1, and 56-468.2 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 1 of Title 33.2 a section numbered 33.2-117 and by adding in Title 33.2 a chapter numbered 33, consisting of sections numbered 33.2-3300 through 33.2-3308; and to repeal Chapter 68 (§§ 15.2-6800 through 15.2-6809) of Title 15.2, Chapter 13 (§ 33.2-1300) of Title 33.2, and §§ 33.2-2217 and 56-355.1 of the Code of Virginia, relating to transportation.*

[H 1398]

Approved March 17, 2015

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

**1. That §§ 33.2-100, 33.2-321, 33.2-501, 33.2-601, 33.2-612, 33.2-613, 33.2-1024, 33.2-1025, 33.2-1027, 33.2-1230, 33.2-1509, 33.2-1726, 33.2-1915, 33.2-1929, 33.2-2103, 33.2-2205, 33.2-2216, 33.2-2300, 33.2-2915, 33.2-2916, 56-366.1, and 56-468.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 33.2 a section numbered 33.2-117 and by adding in Title 33.2 a chapter numbered 33, consisting of sections numbered 33.2-3300 through 33.2-3308, as follows:**

**§ 33.2-100. Definitions.**

As used in this title, unless the context requires a different meaning:

"Asset management" means a systematic process of operating and maintaining the systems of state highways by combining engineering practices and analysis with sound business practices and economic theory to achieve cost-effective outcomes.

"Board" means the Commonwealth Transportation Board.

"City" has the meaning assigned to it in § 1-208.

"Commissioner" or "Commissioner of Highways" means the individual who serves as the chief executive officer of the Department of Transportation.

"Department" means the Department of Transportation.

"Federal-aid systems" are the Interstate System and the National Highway System as set forth in 23 U.S.C. § 103.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth.

"Highway purpose," "highway project," or "highway construction" means highway, passenger and freight rail, or public transportation purposes.

"Interstate highway" means any highway in or component of the Interstate System.

"Interstate System" means the same as that term is defined in 23 U.S.C. § 103(c). The "Interstate System" also includes highways or highway segments in the Commonwealth that constitute a part of the Dwight D. Eisenhower National System of Interstate and Defense Highways as authorized and designated in accordance with § 7 of the Federal-Aid Highway Act of 1944 and § 108(a) of the Federal-Aid Highway Act of 1956 and are declared by resolution of the Commonwealth Transportation Board to be portions of the Interstate System.

"Locality" has the meaning assigned to it in § 1-221.

"Maintenance" means (i) ordinary maintenance; (ii) maintenance replacement; (iii) operations that include traffic signal synchronization, incident management, and other intelligent transportation system functions; and (iv) any other categories of maintenance that may be designated by the Commissioner of Highways.

"Municipality" has the meaning assigned to it in § 1-224.

"National Highway System" means the same as that term is defined in 23 U.S.C. § 103(b).

"Primary highway" means any highway in or component of the primary state highway system.

"Primary state highway system" consists of all highways and bridges under the jurisdiction and control of the Commonwealth Transportation Board and the Commissioner of Highways and not in the secondary state highway system.

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

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular

travel. A highway may include two or more roadways if divided by a physical barrier or barriers or unpaved areas.

"Secondary highway" means any highway in or component of the secondary state highway system.

"Secondary state highway system" consists of all public highways, causeways, bridges, landings, and wharves in the counties of the Commonwealth not included in the primary state highway system and that have been accepted by the Department of Transportation for supervision and maintenance.

"Secretary" means the Secretary of Transportation.

"Systems of state highways" has the meaning assigned to it in § 1-251.

"Urban highway system" consists of those public highways, or portions thereof, not included in the systems of state highways, to which the Commonwealth Transportation Board directs payments pursuant to § 33.2-319.

**§ 33.2-117. Statutes declaring streams and rivers to be highways continued.**

*All statutes heretofore enacted declaring certain streams and rivers to be highways and providing for removing obstructions therefrom and from other streams shall continue in force.*

**§ 33.2-321. Agreements between Commonwealth Transportation Board and certain counties for operation of certain devices on state highways.**

The Commissioner of Highways is empowered to enter into agreements with the governing bodies of ~~Arlington and Henrico Counties~~ *counties that have withdrawn or elect to withdraw from the secondary state highway system pursuant to § 11 of Chapter 415 of the Acts of Assembly of 1932*, upon such terms as may be agreeable between the parties, in order to authorize such counties to install, maintain, and control traffic signals, parking meters, lane-use control signals, and other traffic control devices at specific locations on the primary or secondary state highway system within such counties. Such counties and the Commissioner of Highways shall have the authority to do all things reasonable or convenient to effectuate the purposes of this section.

**§ 33.2-501. Designation of HOV lanes; use of such lanes; penalties.**

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Board may designate one or more lanes of any highway in the Interstate System, primary state highway system, or secondary state highway system as HOV lanes. When lanes have been so designated and have been appropriately marked with signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such lanes. Any highway for which the locality receives highway maintenance funds pursuant to § 33.2-319 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. ~~Notwithstanding the foregoing provisions of this section~~ *However*, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as firefighting vehicles, ambulances, and rescue squad vehicles;
2. Law-enforcement vehicles;
3. Motorcycles;
4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver;
- b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-2096, 46.2-2099.4, or 46.2-2099.44;
5. Vehicles of public utility companies operating in response to an emergency call;
6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3, provided such use is in compliance with federal law;
7. Taxicabs having two or more occupants, including the driver; or
8. (Contingent effective date) Any active duty military member in uniform who is utilizing Interstate 264 and Interstate 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of Highways shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility shall be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner of Highways shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because

of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board or local governing body shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section is guilty of a traffic infraction, which shall not be a moving violation, and on conviction shall be fined \$100. However, violations committed within the boundaries of Planning District 8 shall be punishable as follows:

1. For a first offense, by a fine of \$125;
2. For a second offense within a period of five years from a first offense, by a fine of \$250;
3. For a third offense within a period of five years from a first offense, by a fine of \$500; and
4. For a fourth or subsequent offense within a period of five years from a first offense, by a fine of \$1,000.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section, except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District 8 shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any locality, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.2-613, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. Notwithstanding the contrary provisions of this section, the following conditions shall be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to HOV-3 or any more restrictive designation:

1. The Department of Transportation shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.
2. The Department of Transportation shall hold public hearings in the corridor to receive comments from the public.
3. The Department of Transportation shall make a finding of the need for a change in such designation, based on public hearings and its internal data, and present this finding to the Board for approval.
4. The Board shall make written findings and a decision based upon the following criteria:
  - a. Is changing the HOV-2 designation to HOV-3 in the public interest?
  - b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?
  - c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

#### **§ 33.2-601. Ferry across Corrotoman River.**

The public free ferry across the Corrotoman River, in the County of Lancaster, authorized by the act of March 12, 1847 Chapter 156 of the Acts of Assembly of 1847, shall be kept according to such act, except as otherwise provided in this section. The Circuit Court of Lancaster may have the contract for keeping the same let to the lowest bidder for a period of five years, and the bonds thereby directed shall be to the County of Lancaster. Furthermore, the ferry shall cross from Merry Point to the upper side of the wharf and canning factory at Ottoman wharf. However, the circuit court of the county shall have the right, upon the application of the board of supervisors, to discontinue the ferry if it appears that public

necessity therefor no longer exists. No such application shall be made unless and until notice is given by (i) publication once a week for two successive weeks in a newspaper published in the county or having general circulation therein and (ii) posting copies of the notice at the front door of the courthouse of the county and at both landings of the ferry. Such notice shall be posted and the first newspaper publication made at least 30 days before the day on which the application will be made to the court.

**§ 33.2-612. Unlawful for Department of Transportation to permit free passage over certain toll bridges and ferries; exceptions.**

Except for those persons exempted from tolls under § 33.2-613, it shall be unlawful for the Department or any employee thereof to give or permit free passage over any toll bridge, tunnel, or ferry that has been secured through the issuance of revenue bonds and which bonds are payable from the revenues of such project. Every vehicle shall pay the same toll as others similarly situated. Except as provided in § 33.2-613, the provisions *hereof of this section* shall apply to vehicles and employees of the state government, local governments, or other political subdivisions and to vehicles and persons of all other categories and descriptions, public, private, eleemosynary, or otherwise.

**§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

A. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543 said vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.). Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Alcoholic Beverage Control Board;
7. Employees of the regulatory and hearings divisions of the Department of Alcoholic Beverage Control and special agents of the Department of Alcoholic Beverage Control;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Game and Inland Fisheries;
15. Persons operating firefighting equipment and ambulances owned by a political subdivision of the Commonwealth or a nonprofit association or corporation;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll

bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license issued by the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;
2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;
3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and
4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

*H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, said vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).*

**§ 33.2-1024. Reformation, alteration, revision, amendment, or invalidation of certificate.**

Upon the recordation of such certificate, no reformation, alteration, revision, amendment, or invalidation shall be made for any purpose without the prior consent of the court wherein such certificate is recorded. The court shall have jurisdiction to reform, alter, revise, amend, or invalidate in whole or in part any certificate; to correct mistakes in the description of the property affected by such certificate; to correct the name of the owner in the certificate; to correct any other error that may exist with respect to such certificate; or for any other purpose. A petition filed by the Commissioner of Highways with the court setting forth any error made in such certificate, or the necessity of any change therein, shall be deemed sufficient basis for the reformation, alteration, revision, amendment, or invalidation in whole or in part of such certificate. The court may enter an order permitting the reformation, alteration, revision, amendment, or invalidation in whole or in part, and such order, together with any revised certificate that may be necessary, shall be ~~spread~~ *recorded* in the current deed book. The filing of any certificate pursuant to the provisions of this section shall not alter the date of taking as established by the filing of the original certificate pursuant to § 33.2-1021 as to any land that is included in the amended certificate, and no such amended certificate shall include any land not in the original certificate. Nothing ~~herein contained in this section~~ shall be construed to prohibit or preclude any person damaged thereby from showing in the proper proceeding the damage suffered by reason of such mistake or the invalidation of a certificate of deposit as ~~herein~~ provided in *this section*.

**§ 33.2-1025. When condemnation proceedings instituted; payment of compensation or damages; order confirming award; recording.**

Within 180 days after the recordation of such certificate, if the Commissioner of Highways and the owner of such lands or interest therein taken or damaged by the Commissioner of Highways are unable to agree as to the compensation or damages, if any, caused thereby, or such consent cannot be obtained

due to the incapacity of the owner, or because such owner is unknown or cannot with reasonable diligence be found within the Commonwealth, the Commissioner of Highways shall institute condemnation proceedings, as provided in this article, unless said proceedings shall have been instituted prior to the recordation of such certificate. The amount of such compensation and damages, if any, awarded to the owner in such proceedings shall be paid out of the appropriations to the Department. The final order confirming the award of the Commissioner of Highways shall confirm absolute and indefeasible title to the land, or interest therein sought, in the Commonwealth and shall be ~~spread~~ *recorded* in the current deed book.

**§ 33.2-1027. Agreements as to compensation; petition and order of court thereon; disposition of deposit.**

At any time after the recordation of such certificate, but prior to the institution of condemnation proceedings, if the Commissioner of Highways and the owner of the land or interest therein taken or damaged are able to agree as to compensation for the land taken and damages, if any, caused by such taking, the Commissioner of Highways shall file with the court a petition so stating, with a copy of the agreement attached. If condemnation proceedings are already pending at the time of reaching such agreement, no such petition shall be required, but the motion for dismissal of such proceedings shall contain an averment that such agreement has been reached. Upon the filing of such petition or motion to dismiss, the court shall thereupon enter an order confirming absolute and indefeasible title to the land or interest therein in the Commonwealth. Such order shall be ~~spread~~ *recorded* in the current deed book. Upon entry of such order, the Commissioner of Highways and State Treasurer shall be relieved of further obligation by virtue of having filed such certificate of deposit with the court.

If it shall appear from such petition and agreement, or motion to dismiss a pending suit, that no person other than those executing such agreement are entitled to the fund on deposit, the court shall direct that such fund, after payment therefrom of any taxes that may be charged against such land taken, be disbursed and distributed in accordance with the statement or charge in the petition or motion among the parties or persons entitled thereto. If it shall appear that a controversy exists as to the persons entitled to such fund, such distribution shall be made in accordance with the provisions of § 33.2-1023.

**§ 33.2-1230. Adjustment or relocation of certain billboard signs.**

A. Notwithstanding any other provision of law, general or special, whenever land is acquired due to the widening, construction, or reconstruction of any highway ~~as defined in § 33.2-1200~~ by purchase or by use of the power of eminent domain by any condemnor and upon such land is situated a lawfully erected billboard sign ~~as defined in § 33.2-1200~~ or whenever a lawfully erected billboard sign ~~as defined in § 33.2-1200~~ is situated adjacent to such a highway and is affected by the construction of a sound wall, such billboard sign may be relocated as provided in this section.

B. If a billboard sign meets all requirements under the provision of this title, the size, lighting, and spacing requirements of a locality that is certified in accordance with 23 C.F.R. § 750.706 and the federal-state agreement, if applicable, and § 4.1-113.1 in the case of outdoor alcoholic beverage advertising, but is considered nonconforming solely due to a local ordinance, the owner of the billboard sign, at his sole cost and expense, shall have the option to relocate such billboard sign to another location as close as practicable on the same property, adjusting the height or angle of the billboard sign to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility as before the taking or before construction of the sound wall, provided the new location also meets all the requirements of this title and regulations adopted pursuant thereto. The billboard sign may remain in its original location, provided the owner of the billboard sign pays monthly rent to the Commissioner of Highways or other condemnor equivalent to the monthly rent received by the property owner for the billboard prior to acquisition, and until such time as the Commissioner or other condemnor gives notice to the owner of such billboard sign that the billboard sign must be removed. The notice of removal shall be provided at least 45 days prior to the required removal date, which shall be the earlier of the certification date for a highway project advertisement for construction bids or the date that utility relocations are scheduled to commence.

C. Nothing in this section shall authorize the owner of such billboard sign to increase the size of the sign face, and a relocated billboard sign shall continue to be nonconforming in its new location unless the relocated billboard sign becomes conforming in its new location under the local ordinance. The provisions of § 33.2-1219 shall apply to any relocation.

**§ 33.2-1509. Funds for access roads to economic development sites and airports; construction, maintenance, etc., of such roads.**

A. Notwithstanding any other provision of law, there shall be appropriated to the Board funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes, or any other state revenue allocated for highway purposes, which shall be used by the Board for the purposes ~~hereinafter~~ *specified in this section*, after deducting the costs of administration before any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining, or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate

headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such establishment or airport already constructed or for which the construction is under firm contract, a locality may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns that receive highway maintenance payments under § 33.2-319 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

C. Any access road constructed or improved under this section shall constitute a part of the secondary state highway system or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained, and improved as other roads or highways in such system.

**§ 33.2-1726. Incidental powers of the Board.**

The Board may make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this chapter and may employ engineering, architectural, and construction experts and inspectors, brokers, and such other employees as may be deemed necessary, who shall be paid such compensation as may be provided in accordance with law. All such compensation and all expenses incurred in carrying out the provisions of this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation shall be incurred pursuant to this chapter beyond the extent to which money has been provided under the authority of this chapter. The Board may exercise any powers that are necessary or convenient for the execution of its powers under this chapter.

The Board shall maintain and keep in good condition and repair, or cause to be maintained and kept in good condition and repair, the projects authorized under this chapter, when acquired or constructed and opened to traffic, including any project or part thereof that may include portions of existing streets or roads within a county, municipality, or other political subdivision.

The Board is authorized and empowered to establish regulations for the use of any one or more of the projects defined in § 33.2-1700, as amended, including reasonable regulations relating to (i) maximum and minimum speed limits applicable to motor vehicles using such project, any other provision of law to the contrary notwithstanding; (ii) the types, kinds, and sizes of vehicles that may use such projects; (iii) the nature, size, type of materials, or substances that shall not be transported over such project; and (iv) such other matters as may be necessary or expedient in the interest of public safety with respect to the use of such project, provided that as to the project authorized under the terms of subdivision 5 of the definition of "project" in § 33.2-1700, the provisions of clauses (i), (ii), (iii), and (iv) shall not apply to existing streets within a municipality and embraced by such project, except as may be otherwise agreed upon by the Board and the municipality.

The projects acquired or constructed under this chapter may be policed in whole or in part by State Police officers even though all or some portions of any such projects lie within the corporate limits of a municipality or other political subdivision. Such officers shall be under the exclusive control and direction of the Superintendent of State Police and shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws and regulations of the Commonwealth within the limits of any such projects. All other police officers of the Commonwealth and of each locality or other political subdivision through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they have beyond such limits and shall have access to the projects at any time for the purpose of exercising such powers and jurisdiction.

The Board is authorized and empowered to employ and appoint "project guards" for the purpose of protecting the projects and to enforce the regulations of the Board, except those paralleling state law, established for the use of such projects. Such guards may issue summons to appear or arrest on view without warrant and conduct before the nearest officer authorized by law to admit to bail any persons violating, within or upon the projects, any such rule or regulation. The provisions of §§ 46.2-936 and 46.2-940 shall apply mutatis mutandis to the issuance of summons or arrests without warrants pursuant to this section.

The violation of any regulation adopted by the Board pursuant to the authority hereby granted shall be punishable as follows: If such violation would have been a violation of law if committed on any public street or highway in the county, city, or town in which such violation occurred, it shall be

punishable in the same manner as if it had been committed on such public road, street, or highway; otherwise it shall be punishable as a *Class 1* misdemeanor.

The powers and duties of the Board enumerated in this chapter shall not be construed as a limitation of the general powers or duties of the Board. The Board, in addition to the powers and duties enumerated in this chapter, shall do and perform any and all things and acts necessary in the construction or acquisition, maintenance, and operation of any project to be constructed or acquired under the provisions of this chapter, to the end that such project may become and be operated free of tolls as early as possible and practicable, subject only to the express limitations of this chapter and the limitations of other laws and constitutional provisions applicable thereto.

**§ 33.2-1915. Powers and functions generally.**

A. Notwithstanding any other contrary provision of law, a commission shall, except as provided in subsection B, have the following powers and functions:

1. The commission shall prepare the transportation plan for the transportation district and shall revise and amend the plan in accordance with the planning process and procedures specified in Article 7 (§ 33.2-1928 et seq.).

2. The commission may, when a transportation plan is adopted according to Article 7 (§ 33.2-1928 et seq.), construct or acquire, by purchase or lease, the transportation facilities specified in such transportation plan.

3. The commission may enter into agreements or leases with private companies for the operation of its facilities or may operate such facilities itself.

4. The commission may enter into contracts or agreements with the counties and cities within the transportation district, with counties and cities that adjoin the transportation district and are within the same planning district, or with other commissions of adjoining transportation districts to provide, or cause to be provided, transit facilities and service to such counties and cities or to provide transit facilities and other modes of transportation between adjoining transportation districts. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be utilized by the transportation district to finance the construction and operation of transportation facilities, and such contracts, agreements, or leases shall inure to the benefit of any creditor of the transportation district.

However, except in any transportation district containing any or all of the Counties of Chesterfield, Hanover, and Henrico or the City of Richmond, being so delegated by the respective local governments, the commission shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is expressly reserved to the municipalities within which taxicabs operate. In any transportation district containing any or all of the Counties of Chesterfield, Hanover, and Henrico or the City of Richmond, the commission may, upon proper authority granted by the respective component governments, regulate services provided by taxicabs, either within localities or across county or city boundaries.

B. The Northern Virginia Transportation Commission:

1. Shall not prepare a transportation plan or construct or operate transit facilities, but shall collaborate and cooperate in the manner specified in Article 7 (§ 33.2-1928 et seq.) with an agency in preparing, revising, and amending a transportation plan for such metropolitan area.

2. Shall, according to Article 7 (§ 33.2-1928 et seq.) and in cooperation with the governing bodies of the component governments embraced by the transportation district, formulate the tentative policy and decisions of the transportation district with respect to the planning, design, location, construction, operation, and financing of transportation facilities.

3. May, when a transportation plan applicable to such a transportation district is adopted, enter into contracts or agreements with an agency to contribute to the capital required for the construction or acquisition of transportation facilities and for meeting expenses and obligations in the operations of such facilities.

4. May, when a transportation plan applicable to such transportation district is adopted, enter into contracts or agreements with the counties and cities within the transportation district to provide or cause to be provided transportation facilities and service to such counties and cities.

5. Notwithstanding any other provision in this section to the contrary:

a. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise and provide transportation facilities thereon for use in connection with any transportation service;

b. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise in advance of need for sale or contribution to an agency, for use by that agency in connection with an adopted mass transit plan;

c. May, in accordance with the terms of any grant from or loan by the United States of America or the Commonwealth, or any agency or instrumentality thereof, or when necessary to preserve essential transportation service, acquire transit facilities or any carrier that is subject to the jurisdiction of the Washington Metropolitan Area Transit Commission by acquisition of the capital stock or transit facilities and other assets of any such carrier and shall provide for the performance of transportation by any such carrier or with such transit facilities by contract or lease. However, the contract or lease shall be for a



term of no more than one year, renewable for additional terms of similar duration, and, in order to assure acceptable fare levels, may provide for financial assistance by purchase of service, operating subsidies, or otherwise. No such service shall be rendered that will adversely affect transit service rendered by the transit facilities owned or controlled by the agency or any existing private transit or transportation company. When notified by the agency that it is authorized to perform or cause to be performed transportation services with motor vehicle facilities, the commission, upon request by the agency, shall transfer such capital stock or transit facilities to the agency at a price to be agreed upon; and

d. May prepare a plan for mass transportation services with cities, counties, agencies, authorities, or commissions and may further contract with transportation companies, cities, counties, commissions, authorities, agencies, and departments of the Commonwealth and appropriate agencies of the federal government or governments contiguous to the Commonwealth to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

C. The provisions of subdivisions B 1 through 4 and subdivisions B 5 b and c shall not apply (i) to any transportation district that may be established on or after July 1, 1986, and that includes any one or more localities that are located within a metropolitan area, but that were not, on January 1, 1986, members of any other transportation district or (ii) to any locality that, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986. The provisions of this subsection shall apply only to any transportation district or locality that is contiguous to the Northern Virginia Transportation District. Any such district or locality shall be subject to the provisions of subsection A and further may exercise the powers granted by subdivision B 5 a to acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise and provide transportation facilities thereon for use in connection with any transportation service.

D. Until such time as a commission enters into contracts or agreements with its component governments under the provisions of subdivisions A 4 and B 4 and is receiving revenues thereunder adequate to meet the administrative expenses of the commission after paying or providing for the payment of the obligations arising under said subdivisions, the administrative expenses of the commission shall be borne by the component governments in the manner set forth in this section. The commission annually shall submit to the governing bodies of the component counties and cities a budget of its administrative requirements for the next year.

E. The administrative expenses of the Northern Virginia Transportation Commission, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component governments on the basis of population as reflected by the latest population statistics of the U.S. Census Bureau; however, upon the request of any component government, the commission shall make the allocation upon estimates of population prepared in a manner approved by the commission and by the governing body of the component government making such request. The administrative expenses of the Northern Virginia Transportation Commission, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component governments on the basis of the relative shares of state and federal transit aids allocated by the Commission among its component governments. Such budget shall be limited solely to the administrative expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performing of transportation service. In addition, the Northern Virginia Transportation Commission annually shall submit to the governing bodies of the component counties and cities a budget of its other expenses and obligations for the ensuing year. Such expenses and obligations shall be borne by the component counties and cities in accordance with prior arrangements made therefor.

F. When a transportation plan has been adopted under subdivision A 4 of § 33.2-1929, the commission shall determine the equitable allocation among the component governments of the costs incurred by the district in providing the transportation facilities proposed in the transportation plan and any expenses and obligations from the operation thereof to be borne by each county and city. In making such determinations, the commission shall consider the cost of the facilities located within each county and city, the population of each county and city, the benefits to be derived by each county and city from the proposed transportation service, and all other factors that the commission determines to be relevant. Such determination, however, shall not create a commitment by the counties and cities, and such commitments shall be created only under the contracts or agreements specified in subdivisions A 4 and B 4.

#### **§ 33.2-1929. Procedures.**

A. To ensure that the planning process specified in § 33.2-1928 is effectively and efficiently utilized, the commission shall conform to the following procedures and may prescribe such additional procedures as it deems advisable:

1. Commission meetings shall be held at least monthly and more often in the discretion of the commission, as the proper performance of its duties requires.

2. At such meetings the commission shall receive and consider reports from:

a. Its members who are also members of an agency, as to the status and progress of the work of such agency, and if the commission deems that such reports are of concern to them, shall fully inform

its component governments, committees, and the Commonwealth Transportation Board with respect thereto, as a means of developing the informed views requisite for sound policy-making; and

b. Its members, technical and other committees, members of the governing bodies of the component governments, and consultants, presenting and analyzing studies and data on matters affecting the making of policies and decisions on a transportation plan and the implementation thereof.

3. The objective of the procedures specified in this section is to develop agreement, based on the best available information, among the district commission, the governing bodies of the component governments, the Commonwealth Transportation Board, and an interstate agency with respect to the various factors that affect the making of policies and decisions relating to a transportation plan and the implementation thereof. If any material disagreements occur in the planning process with respect to objectives and goals, the evaluation of basic data, or the selection of criteria and standards to be applied in the planning process, the commission shall exert its best efforts to bring about agreement and understanding on such matters. The commission may hold hearings in an effort to resolve any such basic controversies.

4. Before a transportation plan is adopted, altered, revised, or amended by the commission or by an agency on which it is represented, the commission shall transmit such proposed plan, alteration, revision, or amendment to the governing bodies of the component governments, to the Commonwealth Transportation Board, and to its technical committees and shall release to the public information with respect thereto. A copy of the proposed transportation plan, amendment, or revision shall be kept at the commission office and shall be available for public inspection. Upon 30 days' notice, published once a week for two successive weeks in one or more newspapers of general circulation within the transportation district, a public hearing shall be held on the proposed plan, alteration, revision, or amendment. The 30 days' notice period shall begin to run on the first day the notice appears in any such newspaper. The commission shall consider the evidence submitted and statements and comments made at such hearings and, if objections in writing to the whole or any part of the plan are made by the governing body of any component government, or by the Commonwealth Transportation Board, or if the commission considers any written objection made by any other person, group, or organization to be sufficiently significant, the commission shall reconsider the plan, alteration, revision, or amendment. If, upon reconsideration, the commission agrees with the objection, then the commission shall make appropriate changes to the proposed plan, alteration, revision, or amendment and may adopt them without further hearing. If, upon reconsideration, the commission disagrees with the objection, the commission may adopt the plan, alteration, revision, or amendment. No facilities shall be located in and no service rendered, however, within any county or city that does not execute an appropriate agreement with the commission or with an interstate agency as provided in § 33.2-1922; but in such case, the commission shall determine whether the absence of such an agreement so materially and adversely affects the feasibility of the transportation plan as to require its modification or abandonment.

#### **§ 33.2-2103. Powers and duties of commission.**

The commission may:

1. Expend district revenues to construct, reconstruct, alter, improve, *or* expand; *transportation improvements* and make loans or otherwise provide for the cost of transportation improvements and for financial assistance to operate transportation improvements in the district for the use and benefit of the public.

2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any transportation improvements in the district and sell, lease as lessor, transfer, or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least 10 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. Negotiate and contract with any person with regard to any matter necessary and proper to provide any transportation improvements, including the financing, acquisition, construction, reconstruction, alteration, improvement, expansion, operation, or maintenance of any transportation improvements in the district. For the purposes of this chapter, transportation improvements are within the district if they are located within the boundaries of the transportation improvement district or are reasonably deemed necessary for the construction or operation of transportation improvements within the boundaries of the transportation improvement district.

4. Enter into a continuing service contract for a purpose authorized by this chapter and make payments of the proceeds received from the special taxes levied pursuant to this chapter, together with any other revenues, for installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to make the installment payments due under that contract, subject to the limitation imposed by this chapter. However, payments for any such service contract shall be conditioned upon the receipt of services

pursuant to the contract. Such a contract shall not obligate a county or participating town to make payments for services of the district.

5. Accept the allocations, contributions, or funds of any available source or reimburse from any available source, including any person, for the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion or the operation of any transportation improvements in the district.

6. Contract for the extension and use of any public mass transit system or highway into territory outside the district on such terms and conditions as the commission determines.

7. Employ and fix the compensation of personnel who may be deemed necessary for the construction, operation, or maintenance of any transportation improvements in the district.

8. Have prepared an annual audit of the district's financial obligations and revenues, and upon review of such audit, request a tax rate adequate to provide tax revenues that, together with all other revenues, are required by the district to fulfill its annual obligations.

**§ 33.2-2205. Regulations of the Commission; enforcement.**

The Commission shall have power:

1. To adopt and enforce reasonable regulations that, after publication one time in full in a newspaper of general circulation published in or having general circulation in the City of Virginia Beach and a newspaper of general circulation published in or having general circulation in the County of Northampton and when posted where the using public may conveniently see such regulations, shall have the force and effect of law as to (i) maximum and minimum speed limits applicable to motor vehicles using the project and other property under control of the Commission; (ii) the types, kinds, and sizes of the vehicles that may use the project; (iii) the nature, size, type, or kind of materials or substances that shall not be transported through or over the project; and (iv) such other regulations as may be necessary or expedient in the interest of public safety with respect to the use of the project.

2. To punish a violation of the regulations provided for in subdivision 1 as follows:

a. If a violation would have been a violation of law or ordinance if committed on any public street or highway in the locality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed on such public street or highway.

b. If a violation occurs within one jurisdiction and is punishable within another jurisdiction, the court trying the case shall, if the accused is found guilty, apply the punishment that is prescribed for offenses occurring within the jurisdiction of the court trying the case.

c. All other violations shall be punishable as a *Class 1* misdemeanor.

3. To appoint and employ police to enforce within the area under the control of the Commission the regulations adopted by the Commission and the laws of the Commonwealth. Such police shall have the powers vested in police officers under §§ 15.2-1704 and 52-8, which sections shall apply, mutatis mutandis, to police appointed pursuant to this chapter.

Such police appointed by the Commission may issue summons to appear, or arrest on view or on information without warrant as permitted by law, within the jurisdiction of the Commonwealth, and conduct before any police or county court of any political subdivision into which the project extends any person violating, within or upon the project or other property under the control of the Commission, any rule or regulation of the Commission or any law of the Commonwealth pertaining to the regulation and control of highway traffic on any bridge or tunnel owned or operated by the Commission, including all entrance or exit plazas and approaches adjacent or appurtenant thereto and any rule or regulation regarding the payment of tolls.

4. For the purpose of enforcing such laws and regulations, the courts of the City of Virginia Beach and the County of Northampton have concurrent jurisdiction of criminal offenses that constitute violations of the laws and regulations of the Commission.

**§ 33.2-2216. Governmental function; exemption from taxation.**

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the Commonwealth and for the increase of their commerce and prosperity *and is a public purpose*, and as the operation and maintenance of the project will constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the project or any property acquired *by the Commission or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation and maintenance of the project*, or used by the Commission under the provisions of this chapter, or upon the income therefrom, and the bonds issued under the provisions of this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from *all state and local* taxation within the Commonwealth.

**§ 33.2-2300. U.S. Route 58 Corridor Development Fund.**

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the U.S. Route 58 Corridor Development Fund, referred to in this chapter as "the Fund," consisting of the first \$40 million of annual collections of the state recordation taxes imposed by Chapter 8 of Title 58.1, provided, however, that this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814. The Fund shall also include such other funds as may be appropriated by the General

Assembly and designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from the Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.2-2301.

**§ 33.2-2915. Acquisition of property.**

A. The Authority may acquire, solely from funds provided under the provisions of this chapter, such lands, structures, properties, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction and operation of Authority facilities, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

B. The City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth Transportation Board, and, with the approval of the Governor, public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to the Authority at its request upon such terms and conditions as the governing bodies of the City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth Transportation Board, or the proper authorities of such agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity of any advertisement, order of court, or other action or formality, other than the regular and formal action of the governing bodies or authorities concerned, any real property that may be necessary or convenient for the effectuation of the authorized purposes of the Authority, including public highways and any other real property already devoted to public use.

C. The City of Richmond and the Counties of Henrico and Chesterfield may, subject to the provisions of § 25.1-102, acquire by the exercise of the power of eminent domain granted to or conferred upon them, and in accordance with the procedure prescribed therefor, any real property that may be necessary or convenient for the effectuation of the authorized purposes of the Authority and lease, lend, grant, or convey such property to the Authority upon such terms and conditions as the governing bodies of the City of Richmond or Counties of Henrico and Chesterfield may deem reasonable and fair; the acquisition of such real property by the exercise of the power of eminent domain and the disposition of *the* same to the Authority as provided in this section shall be and is declared to be for a public use of such property.

D. In any eminent domain proceedings by the Authority, the City of Richmond, or the County of Henrico or Chesterfield under this chapter, the court having jurisdiction of the suit, action, or proceeding may make such orders as may be just to the Authority, the City of Richmond, or the County of Henrico or Chesterfield and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority, the City of Richmond, or the County of Henrico or Chesterfield to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority, the City of Richmond, or the County of Henrico or Chesterfield shall impose any liability upon the Commonwealth.

E. If the owner, lessee, or occupier of any property to be condemned or otherwise acquired pursuant to this chapter refuses to remove his property therefrom or give up possession thereof, the Authority, the City of Richmond, or the County of Henrico or Chesterfield may proceed to obtain possession in any manner provided by law.

F. When the Authority, the City of Richmond, or the County of Henrico or Chesterfield proposes to construct a highway across the tracks of any railroad, the exercise of the general power of eminent domain over the property of a railroad granted by § 33.2-2902 shall be limited with respect to the property, right-of-way, facilities, works, or appurtenances upon which the tracks at such proposed crossing are located, to the acquisition only of an easement therein, which crossing shall be constructed either sufficiently above or below the grade of any such railroad track so that neither the crossing then under construction nor any part thereof, including any bridge abutments, columns, supporting structures, and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation, or maintenance of the trains, tracks, works, or appurtenances of the railroad or interfere with or endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the exercise of the power of eminent domain for such an easement, plans and specifications of that portion of the project to be constructed across the railroad tracks showing compliance with such requirements and showing sufficient and safe plans and specifications for such overhead or underground structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within 30 days to approve the plans and specifications so submitted, the matter shall be submitted by the Authority, the City of Richmond, or the County of Henrico or Chesterfield to the State Corporation Commission, whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below such tracks. The overhead or underground structures and appurtenances shall be constructed in accordance with such plans and specifications and in accordance with such elevations or distances above or below such tracks so approved by the railroad or the State Corporation Commission. A copy of the plans and specifications approved by the railroad or the State Corporation Commission

shall be filed as an exhibit upon the institution of any proceeding brought in the exercise of the power of eminent domain.

G. The Commonwealth hereby consents, subject to the approval of the Governor, to the use by the Authority of any other lands or property owned by the Commonwealth, including lands lying under water, that are deemed by the Authority to be necessary for the construction or operation of any project being constructed by the Authority.

**§ 33.2-2916. Transfer to City of Richmond.**

A. If the City of Richmond has rendered financial assistance or contributed in any manner to the cost of construction of a limited access highway by the Authority within or partly within and partly without the corporate limits of the City of Richmond, and the Authority has issued bonds for the construction of such limited access highway, then, when all such bonds, including refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States government securities have been deposited and dedicated to the payment of all such bonds and the interest to the maturity or redemption date thereof in trust for the benefit of the holders of such bonds, all property, real and personal, acquired in connection with such limited access highway within the City of Richmond shall be transferred by the Authority to the City as compensation to the City for the financial assistance rendered by the City to the Authority in connection with the construction or acquisition of such limited access highway; ~~and such~~. Such highway shall upon the acceptance thereof by the City become a part of the street or highway system of the City and shall thereafter be maintained and operated as a limited access highway by the City. The governing body of the City of Richmond shall have the power to fix, revise, charge, and collect tolls for transit over such limited access highway and as compensation for other uses that may be made thereof. The proceeds from such tolls and compensation shall be first used to reimburse the City of Richmond and the Counties of Henrico and Chesterfield for any funds or expenditures made by each of them pursuant to contracts or agreements authorized by § 33.2-2913 for which reimbursement has not been made, and then for the operation, maintenance, improvement, expansion, or extension of such limited access highway and to increase its utility and benefits and for the construction, reconstruction, maintenance, and operation of other projects or highways connected with such limited access highway or with the federal or state highway systems, and for such purpose the City of Richmond shall succeed to all the functions and shall have all the powers conferred on the Authority by this chapter.

B. If the Authority constructs a limited access highway project partly within and partly without the corporate limits of the City of Richmond, any extension thereof shall be constructed or acquired only when approved by the unanimous vote of all members of the board of directors or by a vote of three-fourths of the directors and approval by the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield. If the Authority has issued bonds for the purpose of constructing such project or for the purpose of constructing or acquiring such extensions when all such bonds, including any refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States government securities have been deposited and dedicated to the payment thereof in trust for the benefit of holders of such bonds, all property, real and personal, acquired in connection with such project or extension thereof not required to be transferred to the City of Richmond pursuant to subsection A shall be transferred by the Authority to the political subdivisions in which such property is located at the time of such transfer at no cost to such political subdivisions in the event the subdivisions adopt a resolution accepting such property. If not accepted by such subdivisions within 30 days from the offer of the property by the Authority, then the Authority shall transfer such property to the Commonwealth Transportation Board. If such property is accepted by the political subdivision where the property is located, the governing body of such subdivision shall have the power to fix, revise, charge, and collect tolls for transit over such limited access highway project or extension and as compensation for other uses that may be made thereof. The proceeds from such tolls and compensation shall be used first to reimburse the City of Richmond and the Counties of Henrico and Chesterfield for any funds or expenditures made by each of them pursuant to contracts or agreements authorized by § 33.2-2913 for which reimbursement has not been made and then for the operation, maintenance, improvement, expansion, or extension of such limited access highway project and to increase its utility and benefits and for the construction, reconstruction, maintenance, and operation of other projects or highways connected with such limited access highway or with the state or federal highway systems and for such purpose such political subdivisions shall succeed to all the functions and shall have all the powers conferred on the Authority by this chapter with respect to such property.

**CHAPTER 33.**

**WILLIAMSBURG AREA TRANSIT AUTHORITY.**

**§ 33.2-3300. Authority created.**

*There is hereby created a political subdivision of the Commonwealth known as the Williamsburg Area Transit Authority, hereinafter known as "the Authority."*

*In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:*

*1. The Authority shall prepare a regional transit plan for all or a portion of the areas located within*

the jurisdictional boundaries of each member locality. The regional transit plan may include all or portions of those areas within the City of Williamsburg, the County of James City and such portions of York County as its governing body desires to have covered, and the areas owned or operated by the College of William and Mary and the Colonial Williamsburg Foundation, including transit improvements of regional significance, and those improvements necessary or incidental thereto, and the Authority shall from time to time revise and amend the plan.

2. The Authority may, when a transit plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transit facilities specified in such transit plan.

3. The Authority may enter into agreements or leases with public or private entities for the operation of its facilities, or may operate such facilities itself.

4. The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transit commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any state, local, private, or federal entity to provide, or cause to be provided, transit facilities and services to the area embraced by the Authority. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transit facilities, and such contracts, agreements, or leases shall inure to the benefit of any creditor of the Authority.

5. Notwithstanding any other provision of law to the contrary, the Authority may:

a. Acquire land or any interest therein by purchase, lease, or gift and provide transit facilities thereon for use in connection with any transit service;

b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted transit plan; or

c. Prepare a plan for mass transit services with persons, cities, counties, agencies, authorities, or transportation commissions and may further contract with any such person or other entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

**§ 33.2-3301. Counties and cities embraced by the Authority.**

Upon adoption of an approving ordinance by each of the respective governing bodies wishing to join the Authority, the Authority shall embrace the County of James City, such portions of York County as its governing body desires to have covered, and the City of Williamsburg.

**§ 33.2-3302. Composition of Authority; membership; terms.**

Upon adoption of an approving ordinance by each of the respective governing bodies wishing to join the Authority, the Authority may consist of up to seven members as follows:

Two members representing James City County;

One member representing York County; and

One member representing the City of Williamsburg.

In addition, the county and municipal corporation members may elect up to three additional members to represent the interests of higher-education facilities and private, nonprofit tourist-driven agencies in the Williamsburg area, provided that such member facilities and organizations contribute significant financial resources to the Authority.

The Authority shall appoint the chairman and vice-chairman.

**§ 33.2-3303. Staff.**

The Authority shall employ an executive director and such staff as it deems necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Authority. The Department of Transportation and the Department of Rail and Public Transportation shall make their employees available to assist the Authority, upon request.

**§ 33.2-3304. Decisions of Authority.**

A majority of the members of the Authority shall constitute a quorum. Decisions of the Authority shall require a quorum and shall be in accordance with voting procedures established by the Authority.

**§ 33.2-3305. Allocation of certain Authority expenses among component members.**

The administrative expenses of the Authority, as provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties, city, and educational and nonprofit agencies pursuant to a funding formula as duly adopted by the Authority.

**§ 33.2-3306. Payment to members of Authority.**

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

**§ 33.2-3307. Formation of advisory committees.**

The Authority may, in its discretion, form advisory committees to assist the Authority.

**§ 33.2-3308. Other duties and responsibilities of Authority.**

*In addition to other powers herein granted, the Authority shall have the following duties and responsibilities:*

- 1. General oversight of Williamsburg area programs involving mass transit or congestion mitigation;*
- 2. Long-range transit planning in the Williamsburg area, both financially constrained and financially unconstrained;*
- 3. Recommending to state, regional, and federal agencies regional transit priorities, including public-private transit projects and funding allocations;*
- 4. Allocating to priority regional transit projects any funds made available to the Authority and, at the discretion of the Authority, directly overseeing such projects;*
- 5. Recommending to the Commonwealth Transportation Board priority regional transit projects for receipt of federal and state funds;*
- 6. Serving as an advocate for the transit needs of the Williamsburg area before the state and federal governments;*
- 7. Applying to and negotiating with the government of the United States, the Commonwealth, or any agency or instrumentality thereof, for grants and any other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject, however, to any conditions upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes.*

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

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

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

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

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

**§ 56-468.2. Reimbursement for relocation costs.**

A. After July 1, 1998, certificated providers of telecommunications services shall receive reimbursement for eligible relocation costs incurred at the direction of a locality that imposes by ordinance the Public Rights-of-Way Use Fee or the Department of Transportation for new installations as defined in § 56-468.1 in any public rights-of-way in accordance with §§ 56-458 and 56-462 on the basis of age and according to the following schedule. Such reimbursement shall be received from either (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is in the ~~State Highway System or the secondary system of state highways~~ *primary or secondary state highway system*:

1. For the first three years after the completion of the installation, the certificated provider of telecommunications service shall be reimbursed 100 percent of the eligible cost for the relocation of facilities installed in the public rights-of-way.

2. For the fourth through sixth year after the completion of the installation, the certificated provider of telecommunications service shall be reimbursed 50 percent of the eligible cost for the relocation of facilities installed in the public rights-of-way.

3. Beginning in the seventh year, the certificated provider of telecommunications service shall be responsible for the cost of relocating facilities installed in the public rights-of-way.

Such reimbursement shall be received from either (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is in the ~~State Highway System or the secondary system of state highways~~ *primary or secondary state highway system*.

B. The amount of relocation reimbursement in any fiscal year to be reimbursed under this section shall not exceed the amount of Public Rights-of-Way Use Fees received by that locality either directly or through its secondary highway fund apportionment in the preceding fiscal year. For facilities relocated in 1998 and 1999 at the direction of the locality or the Commonwealth Transportation Board, this limit on relocation reimbursement shall be the estimated annualized fees to be collected in that locality in 1998 for 1998 relocations and in 1999 for 1999 relocations. If the relocation reimbursement limit will be exhausted on a relocation project where two or more certificated providers of telecommunications service are eligible for relocation reimbursement, then the moneys available under the cap shall be shared by those eligible providers by prorating the reimbursement based on the reimbursement to which each provider would be entitled absent the limit.

**2. That whenever any of the conditions, requirements, provisions, or contents of any section of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia are transferred in the same or modified form to a new section or chapter of Title 33.2 or any other title of the Code of Virginia and whenever any such former section is given a new number in Title 33.2 or any other title of the Code of Virginia, all references to any such former section of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia or any other title of the Code of Virginia shall be construed to apply to the new or renumbered section or chapter containing such conditions, requirements, provisions, contents, or portions thereof.**

**3. That the regulations of any department or agency affected by the revision of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.**

**4. That the provisions of § 30-152 of the Code of Virginia shall apply to this act so as to give effect to other laws enacted by the 2015 Session of the General Assembly amending Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia.**

**5. That the repeal of Chapter 68 (§ 15.2-6800 et seq.) of the Code of Virginia effective as of July 1, 2015 shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, the repeal of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia shall apply to offenses committed prior to July 1, 2015, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this enactment, an offense was committed prior to July 1, 2015, if any of the essential elements of the offense occurred prior thereto.**

**6. That any notice given, recognizance taken, or process or writ issued before July 1, 2015, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if**



Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia had been effective before the same was given, taken, or issued.

7. That the repeal of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or contract, that existed prior to such repeal.

8. That the repeal of Chapter 68 (§ 15.2-6800 et seq.) of Title 15.2 of the Code of Virginia shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.

9. That Chapter 68 (§§ 15.2-6800 through 15.2-6809) of Title 15.2, Chapter 13 (§ 33.2-1300) of Title 33.2, and §§ 33.2-2217 and 56-355.1 of the Code of Virginia are repealed.

10. That the provisions of § 33.2-117 of the Code of Virginia, as created by this act, shall be effective retroactively to October 1, 2014.

11. That the provisions of this act shall not affect the existing terms of persons currently serving as members of any agency, board, authority, commission, or other entity and that appointees currently holding positions shall maintain their terms of appointment and continue to serve until such time as the existing terms might expire or become renewed. However, any new appointments made on or after July 1, 2015, shall be made in accordance with the provisions of this act.