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HOUSE BILL NO. 109

Offered January 13, 2016

Prefiled December 15, 2015

A *BILL to amend and reenact §§ 33.2-326, 33.2-337, and 33.2-358 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 33.2 a section numbered 33.2-346.1, relating to maintenance of secondary state highway system components.*

Patron—Lingamfelter

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-326, 33.2-337, and 33.2-358 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 33.2 a section numbered 33.2-346.1 as follows:

§ 33.2-326. Control, supervision, and management of secondary state highway system components.

A. The control, supervision, management, and jurisdiction over the secondary state highway system shall be vested in the Department, and the maintenance and improvement, including construction and reconstruction, of such secondary state highway system shall be by the Commonwealth under the supervision of the Commissioner of Highways *after taking into consideration the maintenance needs of the locality pursuant to § 33.2-346.1*. The boards of supervisors or other governing bodies of the counties shall have no control, supervision, management, or jurisdiction over such public highways, causeways, bridges, landings, and wharves constituting the secondary state highway system *except as provided in § 33.2-346.1*. Except as otherwise provided in this article, the Board shall be vested with the same powers, control, and jurisdiction over the secondary state highway system in the counties and towns of the Commonwealth, and such additions as may be made, as were vested in the boards of supervisors or other governing bodies of the counties on June 21, 1932, and in addition thereto shall be vested with the same power, authority, and control as to the secondary state highway system as is vested in the Board in connection with the primary state highway system.

B. Nothing in this chapter shall be construed as requiring the Department, when undertaking improvements to any secondary state highway system component or any portion of any such component, to fully reconstruct such component or portion thereof to bring it into compliance with all design and engineering standards that would be applicable to such component or portion thereof if the project involved new construction.

§ 33.2-337. Contributions to primary or secondary state highway construction by counties.

Notwithstanding any other provision of law, any county having highways in the primary or secondary state highway system may contribute funds annually for the construction of primary or secondary highways *or the maintenance or improvement of secondary highways or components thereof within the county*. The funds contributed by such county shall be appropriated from the county's general revenues for use by the Department on the primary or secondary state highway system within such county as may be determined by the board of supervisors of such county in cooperation with the Department. The funds to which any county may be entitled under the provisions of § 33.2-358 for construction, improvement, or maintenance of primary or secondary highways shall not be diminished by reason of any funds contributed for that purpose by such county or by any person or entity, regardless of whether such contributions are matched by state or federal funds.

§ 33.2-358. Allocation of funds among highway systems.

A. For the purposes of this section:

"Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of those bridges identified by the Department as being functionally obsolete or structurally deficient.

"High priority projects" means those projects of regional or statewide significance identified by the Board that reduce congestion, increase safety, create jobs, or increase economic development.

"High-tech infrastructure improvements" means those projects or programs identified by the Board that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency response.

B. The Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the Interstate System, the primary state highway system, and the secondary state highway system and for city and town street maintenance payments made pursuant to § 33.2-319 and payments made to counties that have withdrawn

59 or elect to withdraw from the secondary state highway system pursuant to § 33.2-366. *Whenever funds*
60 *are allocated for any component of the secondary state highway system, the funds shall be expended in*
61 *accordance with § 33.2-346.1.*

62 C. (Effective until July 1, 2016) Until July 1, 2020, after funds are set aside for administrative and
63 general expenses and pursuant to other provisions in this title that provide for the disposition of funds
64 prior to allocation for highway purposes, and after allocation is made pursuant to subsection B, the
65 Board shall allocate an amount determined by the Board not to exceed \$500 million in any given year
66 as follows: (i) 25 percent to bridge reconstruction and rehabilitation; (ii) 25 percent to advancing high
67 priority projects statewide; (iii) 25 percent to reconstructing deteriorated Interstate System, primary state
68 highway system, and municipality maintained primary extension pavements determined to have a
69 Combined Condition Index of less than 60; (iv) 15 percent to projects undertaken pursuant to the
70 Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); (v) five percent to paving unpaved
71 highways carrying more than 50 vehicles per day; and (vi) five percent to the Innovation and
72 Technology Transportation Fund established pursuant to § 33.2-1531 for high-tech infrastructure
73 improvements, provided that at the discretion of the Board such percentages of funds may be adjusted in
74 any given year to meet project cash flow needs or when funds cannot be expended due to legal,
75 environmental, or other project management considerations. After such allocations are made, the Board
76 may allocate each year up to 10 percent of the funds remaining for highway purposes for the
77 undertaking and financing of rail projects that in the Board's determination will result in mitigation of
78 highway congestion. After the foregoing allocations have been made, the Board shall allocate the
79 remaining funds available for highway purposes, exclusive of federal funds for the Interstate System,
80 pursuant to § 33.2-360 and any funds not allocated to a project in the Six-Year Improvement Program as
81 follows:

82 50 percent for the high-priority projects program established pursuant to § 33.2-370 and 50 percent
83 for the highway construction district grant programs established pursuant to § 33.2-371.

84 C. (Effective July 1, 2016) Until July 1, 2020, after funds are set aside for administrative and general
85 expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to
86 allocation for highway purposes, and after allocation is made pursuant to subsection B, the Board shall
87 allocate an amount determined by the Board not to exceed \$500 million in any given year as follows: (i)
88 25 percent to bridge reconstruction and rehabilitation; (ii) 25 percent to advancing high priority projects
89 statewide; (iii) 25 percent to reconstructing deteriorated Interstate System, primary state highway system,
90 and municipality maintained primary extension pavements determined to have a Combined Condition
91 Index of less than 60; (iv) 15 percent to projects undertaken pursuant to the Public-Private
92 Transportation Act of 1995 (§ 33.2-1800 et seq.); (v) five percent to paving or improving unpaved
93 highways carrying more than 50 vehicles per day; and (vi) five percent to the Innovation and
94 Technology Transportation Fund established pursuant to § 33.2-1531 for high-tech infrastructure
95 improvements, provided that at the discretion of the Board such percentages of funds may be adjusted in
96 any given year to meet project cash flow needs or when funds cannot be expended due to legal,
97 environmental, or other project management considerations. After such allocations are made, the Board
98 may allocate each year up to 10 percent of the funds remaining for highway purposes for the
99 undertaking and financing of rail projects that in the Board's determination will result in mitigation of
100 highway congestion. After the foregoing allocations have been made, the Board shall allocate the
101 remaining funds available for highway purposes, exclusive of federal funds for the Interstate System,
102 pursuant to § 33.2-360 and any funds not allocated to a project in the Six-Year Improvement Program as
103 follows:

104 50 percent for the high-priority projects program established pursuant to § 33.2-370 and 50 percent
105 for the highway construction district grant programs established pursuant to § 33.2-371.

106 D. For funds allocated for fiscal years beginning on and after July 1, 2020, after funds are set aside
107 for administrative and general expenses and pursuant to other provisions in this title that provide for the
108 disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to
109 subsection B, the Board shall allocate all remaining funds, including funds apportioned pursuant to 23
110 U.S.C. § 104, as follows:

111 1. Forty-five percent of the remaining funds to state of good repair purposes as set forth in
112 § 33.2-369;

113 2. Twenty-seven and one-half percent of the remaining funds to the high-priority projects program
114 established pursuant to § 33.2-370; and

115 3. Twenty-seven and one-half percent of the remaining funds to the highway construction district
116 grant programs established pursuant to § 33.2-371.

117 E. The funds allocated in subsection C or D shall not include any federal funds and related state
118 match for federal funds with restrictions regarding the construction of general capacity expansion of
119 roadways, or federal funds not under the control of the Board. Such exclusion shall not include
120 restrictions on the location of projects to specific road classifications.

121 F. In addition, the Board, from funds appropriated for such purpose in the general appropriation act,
122 shall allocate additional funds to the Cities of Newport News, Norfolk, and Portsmouth and the County
123 of Warren in such manner and apportion such funds among such localities as the Board may determine,
124 unless otherwise provided in the general appropriation act. The localities shall use such funds to address
125 highway maintenance and repair needs created by or associated with port operations in those localities.

126 G. Notwithstanding the provisions of this section, the General Assembly may, through the general
127 appropriation act, permit the Governor to increase the amounts to be allocated to highway maintenance,
128 highway construction, either or both.

129 ***§ 33.2-346.1. Program Recognition of Maintenance Priorities in Transportation.***

130 *Whenever the governing body of any county, except counties that have withdrawn from the secondary*
131 *state highway system pursuant to § 33.2-366, submits a request to the Department for maintenance or*
132 *improvement of any component of the secondary state highway system located within such county, the*
133 *Department shall give consideration to such request in establishing priority in expending the*
134 *maintenance funds allocated to such county.*

135 **2. That the Department of Transportation and the Virginia Information and Technology Agency**
136 **shall develop an interactive website on which (i) the Commonwealth's secondary state highway**
137 **maintenance and improvement plan is publicly accessible and (ii) counties that have not**
138 **withdrawn from the secondary state highway system may submit requests for maintenance and**
139 **improvement to components the secondary state highway in the county and shall prioritize such**
140 **requests accordingly.**