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SENATE BILL NO. 669

Offered January 19, 2016

A BILL to amend and reenact § 33.2-219 of the Code of Virginia and to repeal the second enactment of Chapter 722 of the Acts of Assembly of 2015, relating to maintenance payments to certain cities and towns for moving-lanes converted to bicycle-only lanes.

Patrons—Alexander, DeSteph, Edwards, Lewis, Petersen and Surovell; Delegates: Bloxom, Davis, Heretick, James, Krizek, Lindsey, Loupassi, Mason, McQuinn, Miyares, Taylor, Torian, Tyler, Villanueva and Ward

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-219 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-319. Payments to cities and certain towns for maintenance of certain highways.

The Commissioner of Highways, subject to the approval of the Board, shall make payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds under this section. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly.

Funds are allocated to urban highways in (i) all towns that have a population of more than 3,500 according to the last preceding United States census; (ii) all towns that, according to evidence satisfactory to the Board, have attained a population of more than 3,500 since the last preceding United States census; (iii) Chase City, Elkton, Grottoes, Narrows, Pearisburg, and Saltville, which, on June 30, 1985, maintained certain streets under former § 33.1-80 as then in effect; (iv) all cities regardless of their populations; and (v) the Towns of Altavista, Lebanon, and Wise.

No payments shall be made to any such city or town unless the portion of the highway for which such payment is made either (a) has (1) an unrestricted right-of-way at least 50 feet wide and (2) a hard-surface width of at least 30 feet; (b) has (1) an unrestricted right-of-way at least 80 feet wide, (2) a hard-surface width of at least 24 feet, and (3) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; (c)(1) is a cul-de-sac, (2) has an unrestricted right-of-way at least 40 feet wide, and (3) has a turnaround that meets applicable standards set by the Department; (d) either (1) has been paved and has constituted part of the primary or secondary state highway system prior to annexation or incorporation or (2) has constituted part of the secondary state highway system prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof that have previously been maintained under the provisions of § 33.2-339 or 33.2-340; (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; (f) is a street established prior to July 1, 1950, that has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; (g) is a street functionally classified as a local street that was constructed on or after January 1, 1996, and that at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current design standards for subdivision streets as set forth in regulations adopted by the Board; (h) is a street previously eligible to receive street payments that is located in the City of Norfolk or the City of Richmond and is closed to public travel, pursuant to legislation enacted by the governing body of the locality in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

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

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional

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classifications established by the Federal Highway Administration: (A) principal and minor arterial roads and (B) collector roads and local streets. Payments made to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in that locality. Any city converting an existing moving-lane that qualifies for payments under this section to a transit-only lane after July 1, 2014, shall remain eligible for such payments but shall not receive additional funds as a result of such conversion. *Any city or town converting an existing moving-lane that qualifies for payments under this section to a bicycle-only lane after July 1, 2014, shall remain eligible for such payments, provided that the number of moving-lane-miles converted is not more than 50 moving-lane-miles or three percent of the city's or town's total number of moving-lane-miles on July 1, 2014, whichever is less. Any such city or town shall not receive additional funds as a result of such conversion to a bicycle-only lane and shall annually expend funds on road and street maintenance and operations that are at least equal to funds spent on road and street maintenance and operations in the year prior to such conversion.*

The Department shall recommend to the Board an annual rate per category to be computed using the base rate of growth planned for the Department's Highway Maintenance and Operations program. The Board shall establish the annual rates of such payments as part of its allocation for such purpose, and the Department shall use those rates to calculate and put into effect annual changes in each qualifying city's or town's payment under this section.

The payments by the Department shall be paid in equal sums in each quarter of the fiscal year, and payments shall not exceed the allocation of the Board.

The chief administrative officer of the city or town receiving these funds shall make annual categorical reports of expenditures to the Department, in such form as the Board shall prescribe, accounting for all expenditures, certifying that none of the money received has been expended for other than maintenance, construction, or reconstruction of the streets, and reporting on their performance as specified in subsection B of § 33.2-352. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

2. That the second enactment of Chapter 722 of the Acts of Assembly of 2015 is repealed.