

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 784

An Act to amend and reenact § 33.2-338 of the Code of Virginia, relating to compensation of counties for certain construction and improvement of primary and secondary highways.

[H 1518]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-338 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-338. Construction and improvement of primary or secondary highways by counties.

A. Notwithstanding any other provisions of this article, the governing body of any county may expend general revenues or revenues derived from the sale of bonds for the purpose of constructing or improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, that either have been or may be taken into the primary or secondary state highway system. Project planning and the acquisition of rights-of-way shall be under the control and at the direction of the county, subject to the approval of project plans and specifications by the Department. All costs incurred by the Department in administering such contracts shall be reimbursed from the county's general revenues or from revenues derived from the sale of bonds or such costs may be charged against the funds that the county may be entitled to under the provisions of § 33.2-358.

B. Projects undertaken under the authority of subsection A shall not diminish the funds to which a county may be entitled under the provisions of § 33.2-357 or 33.2-358.

C. At the request of the county, the Department may agree to undertake the design, right-of-way acquisition, or construction of projects funded by the county. In such situations, the Department and the county shall enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, or contract administration of projects to be funded by the county. The county shall reimburse the Department for all costs incurred by the Department in carrying out the aforesaid activities from general revenues or revenues derived from the sale of bonds.

D. Notwithstanding any contrary provision of law, any county may undertake activities toward the design, land acquisition, or construction of primary or secondary state highway projects that have been included in the six-year plan pursuant to § 33.2-331, or in the case of a primary state highway, an approved project included in the six-year improvement program of the Board. In such situations, the Department and the county shall enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, or contract administration of projects to be funded by the Department. Such activities shall be undertaken with the prior concurrence of the Department, and the Department shall ~~reimburse~~ *compensate* the county for *eligible* expenses incurred in carrying out these activities. ~~Such reimbursement shall be derived from primary or secondary highway funds that the county may be entitled to under the provisions of this chapter.~~ The county may undertake these activities in accordance with all applicable county procedures, provided the Commissioner of Highways finds that those county procedures are substantially similar to departmental procedures and specifications.

E. If funding for the construction of a primary or interstate project is scheduled in the Board's Six-Year Improvement Program as defined in § 33.2-214, a locality may choose to advance funds to the project. If such advance is offered, the Board may consider such request and agree to such advancement and the subsequent reimbursement of the locality of the advance in accordance with terms agreed upon by the Board or its designee and the locality.

F. Any county carrying out any construction project as authorized in this section may, in so doing, exercise the powers granted the Commissioner of Highways under Article 1 (§ 33.2-1000 et seq.) of Chapter 10 to enter property for the purpose of making an examination and survey thereof, with a view to ascertainment of its suitability for highway purposes and any other purpose incidental thereto.

G. For the purposes of this section, any county without an existing franchise agreement, when administering a Department-sanctioned project under a land-use permit or transportation project agreement, shall have the same authority as the Department pertaining to the relocation of utilities.

H. Whenever so requested by any county, funding of any project undertaken as provided in this section may be supplemented solely by state funds in order to avoid the necessity of complying with additional federal requirements, provided a determination has been made by the Department that (i) adequate state funds are available to fully match available federal transportation funds and (ii) the Department can meet its federal obligation authority, as permitted by federal law.