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**HOUSE BILL NO. 772**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact §§ 33.2-613 and 33.2-1823 of the Code of Virginia; to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 18.3, consisting of sections numbered 33.2-1850 through 33.2-1866; and to repeal Chapter 20 (§§ 56-535 through 56-552) of Title 56 of the Code of Virginia, relating to the Virginia Highway Corporation Act of 1988; transfer authority from State Corporation Commission to Department of Transportation.*

Patron—LaRock

Referred to Committee on Transportation

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

**1. That §§ 33.2-613 and 33.2-1823 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 18.3, consisting of sections numbered 33.2-1850 through 33.2-1866, as follows:**

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

A. 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 Board of Directors of the Virginia Alcoholic Beverage Control Authority;
7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
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 emergency medical services vehicles as defined in § 32.1-111.1;
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. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The

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59 Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.

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

65 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll  
66 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a  
67 misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than  
68 those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll  
69 ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

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

73 1. The vehicle is specially equipped to permit its operation by a handicapped person;

74 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth  
75 or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being  
76 severely physically disabled and having permanent upper limb mobility or dexterity impairments that  
77 substantially impair his ability to deposit coins in toll baskets;

78 3. The driver has applied for and received from the Department of Transportation a vehicle window  
79 sticker identifying him as eligible for such free passage; and

80 4. Such identifying window sticker is properly displayed on the vehicle.

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

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

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

92 1. The Commissioner of Highways;

93 2. Members of the Commonwealth Transportation Board;

94 3. Employees of the Department of Transportation;

95 4. The Superintendent of the Department of State Police;

96 5. Officers and employees of the Department of State Police;

97 6. The Commissioner of the Department of Motor Vehicles;

98 7. Employees of the Department of Motor Vehicles; and

99 8. Sheriffs and deputy sheriffs.

100 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B  
101 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection  
102 operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private  
103 Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in  
104 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent  
105 with the terms of the applicable comprehensive agreement between the operator and the Department.  
106 The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant  
107 to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll  
108 collections on other tolled facilities in the same affected area, whichever occurs first.

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

112 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of  
113 the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of  
114 subdivision B 1 of § ~~56-543~~ 33.2-1858, such vehicles shall not be permitted toll-free use of a roadway  
115 as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ ~~56-535~~ 33.2-1850 et seq.).

116 **§ 33.2-1823. Preservation of the Virginia Highway Corporation Act of 1988.**

117 Nothing in this chapter shall be construed to repeal or change in any manner the Virginia Highway  
118 Corporation Act of 1988 (§ ~~56-535~~ 33.2-1850 et seq.), as amended. Nothing in the Virginia Highway  
119 Corporation Act of 1988, as amended, shall apply to qualifying transportation facilities undertaken  
120 pursuant to the authority of this chapter.

CHAPTER 18.3.  
VIRGINIA HIGHWAY CORPORATION ACT OF 1988.

**§ 33.2-1850. Title.**

*This chapter may be cited as the "Virginia Highway Corporation Act of 1988."*

**§ 33.2-1851. Definitions.**

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

*"Certificate" means the certificate of authority awarded pursuant to this chapter which allows operation of a roadway.*

*"Highway" means the entire width between the boundary lines of every way or place of whatever nature open to the use of the public under the provisions of this chapter for purposes of vehicular travel in the Commonwealth.*

*"Operation" means all functions and pursuits of the operator of any roadway under this chapter which are directly or indirectly related to acquisition, approval, construction, enlargement, maintenance, patrolling, toll collections, or connections of the roadway or highway with any other highway or with any street, road, or alley. "Operation" includes, without limitation, management and administrative functions attendant to actual physical operation of the roadway and management of the affairs of the operator.*

*"Operator" means the person that submits to the Department an application for authority to construct, operate, or enlarge a roadway and which, after issuance of a certificate of authority, is responsible for operation of any roadway under the provisions of this chapter.*

*"Person" includes any natural person, corporation, partnership, joint venture, and any other business entity; however, "person" shall not include the state or any local government or agency thereof, or any municipal corporation or other corporate body.*

*"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or unpaved areas. "Roadway," as used in this chapter, shall include only privately owned or operated highways for use of which a toll or similar single-use charge is imposed.*

*"Toll" means the fee charged by the operator for a single use of all or a portion of the roadway.*

**§ 33.2-1852. Policy.**

*The General Assembly finds that there is compelling public need for rapid construction of safe and efficient highways for the purpose of travel within the Commonwealth, and that it is in the public interest to encourage construction of additional, safe, convenient, and economic highway facilities by private parties, provided that adequate safeguards are provided against default in the construction and operation obligations of the operators of roadways. The public interest shall include without limitation the relative speed of the construction of the project and the relative cost efficiency of private construction of the project. The General Assembly further finds that the use of public funds for the purposes set forth in this section is in the public interest. Accordingly, the General Assembly finds that this chapter is necessary for the public conveyance, safety, and welfare.*

**§ 33.2-1853. Prerequisite for construction and operation.**

*A. No person may construct, operate, or enlarge any roadway within the Commonwealth without first having obtained a certificate from the Department authorizing such construction, operation, or enlargement.*

*B. Any person that obtained a certificate to construct, operate, or enlarge a roadway pursuant to former Chapter 20 (§ 56-535 et seq.) of Title 56 may continue to construct, operate, or enlarge such roadway pursuant to such certificate, provided that such construction, operation, or enlargement after July 1, 2020, shall be subject to the provisions of this chapter.*

**§ 33.2-1854. Certificate of authority.**

*Any person may apply to the Department for a certificate of authority to construct or operate a roadway, or to extend or enlarge a roadway for which a certificate has been issued under this chapter. If the Department determines in writing, after notice and opportunity for a hearing, that the application is complete, that approval of the application is in the public interest, and that the applicant has complied with the provisions of this chapter, it shall approve the application, with or without modification, unless it receives a duly adopted resolution of the governing body of any jurisdiction through which the roadway passes, which requests that the Department deny the application, in which case the Department shall do so. If the application is approved, the operator shall construct the roadway. Upon completion of construction and the opening of the roadway to the public, the roadway shall be kept at all times open for use by the public and made accessible to the public, upon payment of the toll established by the operator, provided that the roadway may be partially or completely closed, temporarily, with the concurrence of the Department, to protect the public safety or for reasonable construction or maintenance procedures. The certificate of authority may be transferred with the approval of the Department if the Department finds the transfer to be in the public interest after*

182 consultation with the Board and notice to the governing body of any jurisdiction through which the  
183 roadway passes.

184 **§ 33.2-1855. Application.**

185 The Department may charge a reasonable application fee to cover the costs of processing, reviewing,  
186 and approving or denying the application. The application for a certificate of authority shall contain the  
187 following material and information:

188 1. The geographic area to be served by the roadway and a topographic map indicating the route of  
189 the roadway;

190 2. A list of the property owners through whose property the roadway or highway will pass or whose  
191 property will abut the roadway or highway;

192 3. The method by which the operator will secure all right-of-way required for the roadway, including  
193 a description of the nature of the interest in the lands to be acquired, which shall provide, at a  
194 minimum, for permanent dedication for transportation purposes, except that in cases in which the  
195 Department would not have authority to condemn land because of the identity of the owner, the interest  
196 to be acquired shall be of the same type and duration as that which the Department would obtain under  
197 the circumstances;

198 4. The comprehensive plan or plans for all counties, cities, and towns through which the roadway  
199 will pass and an analysis that shows that the roadway conforms to these comprehensive plans. To the  
200 extent that the roadway conforms to such plans, the fact that the operator is not the Commonwealth  
201 shall not affect the construction and operation of the roadway;

202 5. The operator's plan for financing the proposed construction or enlargement of the roadway,  
203 including proposed tolls to be charged for use of the roadway, projected amounts to be collected from  
204 such tolls and anticipated traffic volume, and detailed plans for distribution of funds, including the  
205 priority in which necessary expenditures will be made. The plan for financing may be structured to  
206 include, without limitation, provisions for the issuance of debt, equity, or other securities; lease  
207 financing; the pledge of revenues or other assets or rights of the operator; or any combination thereof;

208 6. The operator's plan for operation of the proposed roadway or enlargement thereof;

209 7. A list of all permits and approvals required for construction of the roadway from local, state, or  
210 federal agencies and a schedule for securing such approvals;

211 8. An overall description of the project, the project design, and all proposed interconnections with  
212 the state highway system, including any interstate highway, or secondary system of highways or the  
213 streets or roads of any county, city, or town not within the state highway system, accompanied by a  
214 copy of the approval of the project, the roadway design, and interconnections from the Board, as well  
215 as the county, city, or town for connection with a street or road not under state control;

216 9. A list of public utility facilities to be crossed and plans for such crossings or relocations of such  
217 facilities;

218 10. A certificate of the operator that the roadway will be designed and constructed to meet  
219 Department standards, and substantially in accordance with a proposed timetable that has been deemed  
220 agreeable to the Department, and that the operator will provide a design, review, and inspection  
221 agreement with the Department which shall provide that the Department shall authorize construction  
222 upon review and approval of the plans and specifications for the roadway and its interconnection with  
223 other roads, and that it shall inspect periodically the progress of the construction work to ensure its  
224 compliance with the Department standards; and

225 11. Completion and performance bonds in form and amount satisfactory to the Department, which  
226 amounts shall be set through a consultation with the Department prior to such application.

227 **§ 33.2-1856. Eminent domain.**

228 The power of eminent domain shall not be exercised by the operator for the purpose of acquiring  
229 any lands or estates or interests therein, nor any other property used by the operator for the  
230 construction or enlargement of a roadway pursuant to this chapter.

231 **§ 33.2-1857. Powers of the Department.**

232 A. The Department shall have the power and be charged with the duties of reviewing and approving  
233 or denying the application, of supervising and controlling the operator in the performance of its duties  
234 under this chapter and title, and of correcting any abuse in the performance of the operator's public  
235 duties.

236 B. The Department shall have the power and be charged with the duties of requiring annually from  
237 the operator a verified report describing the nature of its contractual and other relationships with  
238 individuals or entities contracting with the operator for the provision of significant financial,  
239 construction, or maintenance services. The Department shall review the report and such other materials  
240 as it shall deem necessary for the purpose of determining improper or excessive costs, and shall exclude  
241 from the operator's costs any amounts which it finds are improper or excessive. Included in such review  
242 shall be consideration of contractual relationships between the operator and individuals or entities that  
243 are closely associated or affiliated with the operator to assure that the terms of such contractual

relationships are no less favorable or unfavorable to the operator than what it could obtain in an arm's-length transaction.

C. The Department also shall have the duty and authority to approve or revise the toll rates charged by the operator. Initial rates shall be approved if they appear reasonable to the user in relation to the benefit obtained, appear not likely to materially discourage use of the roadway, and provide the operator no more than a reasonable rate of return as determined by the Department. Thereafter, the Department, upon application, complaint, or its own initiative, and after investigation, may order substituted for any toll being charged by the operator a toll that is set at a level that is reasonable to the user in relation to the benefit obtained, will not materially discourage use of the roadway by the public, and will provide the operator no more than a reasonable return as determined by the Department.

D. If a change in the ownership of the facility or change in control of an operator occurs, whether or not accompanied by the issuance of securities as defined in subsection A of § 56-57 and § 56-65.1, the Department, in any subsequent proceeding to set the level of a toll charged by the operator, shall ensure that the price paid in connection with the change in ownership or control, and any costs and other factors attributable to or resulting from the change in ownership or control, if they would contribute to an increase in the level of the toll, are excluded from the Department's determination of the operator's reasonable return, in order to ensure that a change in ownership or control does not increase the level of the toll above that level that would otherwise have been required under subsection C if the change in ownership or control had not occurred. As used in this subsection, "control" has the same meaning as provided in § 56-88.1.

E. The Department shall require an operator to provide copies of annual audited financial statements for the operator, together with a statement of the operator's ownership. The operator shall file such statement within four months from the end of the operator's fiscal year.

F. The proceeds and funding provided to the operator from any future bond indenture or similar credit agreement must be used for the purpose of refinancing existing debt, acquiring, designing, permitting, building, constructing, improving, equipping, modifying, maintaining, reconstructing, restoring, rehabilitating, or renewing the roadway property, and for the purpose of paying reasonable arm's-length fees, development costs, and expenses incurred by the operator or a related individual or entity in executing such financial transaction, unless otherwise authorized by the Department.

G. The Department may charge a reasonable annual fee to cover the costs of supervision and controlling the operator in the performance of its duties under this chapter and pursuant to this section.

**§ 33.2-1858. Powers and duties of roadway operator.**

A. The operator shall have all power allowed by law generally to persons having the same form of organization as the operator, including, without limitation, the authority to operate the roadway and charge tolls for the use thereof, and may pledge any revenue net of operational expenses realized from tolls charged for the use of the roadway in order to secure repayment of any obligations incurred for the construction, enlargement, or operation of such roadway. Any financing of the acquisition, construction, enlargement, or operation of the roadway may be in such amounts and upon such terms and conditions as may be deemed necessary or appropriate by the operator to provide for the acquisition, construction, enlargement, and operation of the roadway; issuance costs; other financing obligations; and reasonable reserves. The Commonwealth shall not obligate its full faith and credit on any financing of the operator. Assumption of operation of the project shall not obligate the Commonwealth to pay any obligation of the operator, whether secured or otherwise, from sources other than toll revenue. Subject to applicable permit requirements, the operator shall have the authority to cross any canal or navigable watercourse so long as the crossing does not unreasonably interfere with navigation and use of the waterway. In operating the roadway, the operator may:

1. Classify traffic according to reasonable categories for assessment of tolls; and
2. With the consent of the Department, make and enforce reasonable regulations, including regulations:
  - a. Which set maximum and minimum speeds that shall conform to Department and state practices;
  - b. Which exclude undesirable vehicles or cargoes or materials from the use of the roadway; or
  - c. Which establish commuter lanes for use during all or any part of a day and limit the use of such lanes to certain traffic.

The enumeration of powers in this subsection shall not limit the power of the operator to do anything it deems necessary and appropriate in the operation of the roadway, provided that the practice is reasonable and nondiscriminatory. The powers granted to the operator in this subsection shall not be deemed to limit the authority of the Department to regulate the operator under this title.

B. The operator shall have the following duties:

1. It shall file and maintain at all times with the Department an accurate schedule of rates charged to the public for use of all or any portion of the roadway and it shall also file and maintain a statement

305 that such rates will apply uniformly to all users within any such reasonable classification as the  
306 operator may elect to implement. These rates shall be neither applied nor collected in a discriminatory  
307 fashion, and free vehicular passage shall be permitted to those persons referred to in subsection A of  
308 § 33.2-613.

309 2. It shall construct and maintain the roadway for anticipated use according to appropriate  
310 standards of the Department for public highways operated and maintained by the Department, and  
311 enlarge or expand the road when unsatisfied demand for use of the roadway makes it economically  
312 feasible to do so. The operator shall agree with the Department for inspection of construction work by  
313 the Department at appropriate times during any construction or enlargement. In addition, it shall  
314 cooperate fully with the Department in establishing any interconnection with the roadway that the  
315 Department may make.

316 3. It shall contract with the Commonwealth for enforcement of the traffic and public safety laws by  
317 state authorities, and may similarly contract with appropriate local authorities for those portions of the  
318 roadway within the local jurisdiction.

319 **§ 33.2-1859. Board approval; inspection agreement with Department.**

320 A. The applicant for a certificate of authority to construct or enlarge a roadway pursuant to this  
321 chapter shall first secure the approval of the Board for the project, the project construction costs, the  
322 location and design of the roadway, and its connection with any road under the jurisdiction of the  
323 Board, at proper and convenient places, in order to provide for the convenience of the public. The  
324 Board shall approve or deny approval by the later to occur of (i) 60 days following receipt of a  
325 description of the proposed location and design of the roadway and its connection with all other roads  
326 or (ii) 45 days following the conduct of a hearing contemplated by subsection B of § 33.2-208, if such a  
327 hearing is held and provided that the notice requirements of that section are fulfilled by the Department  
328 within 30 days of receipt of the application, a project design, and a description of the project and the  
329 public need for the project. The Board shall approve the project and its interconnections with other  
330 roads if there is a public need for a road project of the type proposed and the project and its  
331 interconnections are compatible with the existing road network. It shall approve the project construction  
332 costs if they are reasonable. If interconnections with an interstate highway or other federal facility are  
333 contemplated, the Board's approval shall be conditioned upon ultimate approval of any interconnection  
334 if such federal approvals are required and have not been obtained by the time the Board acts. Approval  
335 of the roadway design shall not be withheld if it conforms materially with Department practices for toll  
336 facilities of similar size and with similar usage patterns. In making its determinations, the Board shall  
337 keep in mind the public interest, which may include, without limitation, such considerations as the  
338 relative speed of the construction of the project and the allocation of the technical, financial, and human  
339 resources of the Department. The approval granted by the Board shall be conditioned upon subsequent  
340 compliance by the applicant with the agreement contemplated by subsection B. If the roadway is to be  
341 built partially or completely along existing state highway right-of-way, the Board shall grant the  
342 applicant authority to use such right-of-way only after approval of this use of the right-of-way by the  
343 General Assembly.

344 B. If approval of the project, project design, and connections of the roadway is granted by the  
345 Board, the Department shall thereafter enter into a comprehensive agreement with the operator which  
346 provides, inter alia, that the Department shall review and approve plans and specifications for the  
347 roadway if they conform to state practices; that the Department will inspect and approve construction of  
348 the roadway if it conforms to the plans and specifications or state construction and engineering  
349 standards; that the Department will, throughout the life of the roadway project, monitor the maintenance  
350 practices of the operator and take such actions as are appropriate to ensure the performance of  
351 maintenance obligations; and that the Department shall be reimbursed its direct project costs, by the  
352 operator, for the services performed by the Department. The agreement shall also provide, inter alia,  
353 that the operator will establish and fund accounts which shall ensure that funds are available to meet  
354 the obligations of the operator; including reasonable reserves for contingencies and maintenance  
355 replacement activities. The approval of plans and specifications, and construction, may be undertaken in  
356 phases, but no construction may commence until approval of plans including that phase of construction.  
357 The services for which the Department shall be reimbursed include project development costs, such as  
358 those attendant to preparation of environmental impact statements, which are necessary for the  
359 construction of the roadway by a private operator but have been performed by the Department. The  
360 agreement may include a provision that the Department will perform services necessary for project  
361 development on behalf of the operator, and in such a case, the Department shall be fully reimbursed by  
362 the operator for its direct costs.

363 **§ 33.2-1860. Local approvals.**

364 A. Prior to the issuance of a certificate of authority by the Department and contemporaneously with  
365 the filing of any application materials with the Department, the applicant shall provide the local  
366 governing body of each jurisdiction through which any part of the roadway passes with the application

information and materials required by § 33.2-1855 and an overall description of the project and its benefits. The governing body may participate in procedures conducted by the Board or the Department concerning the application.

B. When the operator wishes to occupy lands owned by any county, city, or town, or any agency or instrumentality of the federal government, including the streets or alleys of a city or town, or the roads of any county, it shall first obtain a franchise allowing such occupancy or it may obtain the necessary interests through grant or other appropriate conveyance to the operator for a period of time, in the case of a franchise, not to exceed the term of the certificate.

C. Where the applicant wishes to interconnect with the streets of any city or town, or the road system of any county, and the locality is willing to allow the interconnection, it shall submit appropriate plans for the connection to the governing body, which shall approve the connection if it determines that the connection meets all appropriate engineering requirements.

D. The operator and the county, city, or town may also agree on any supplemental or related matters in addition to the matters specified in § 15.2-2026, according to such terms and conditions as are reasonable, appropriate, and in the public interest, and any such county, city, or town is hereby enabled to enter into such an agreement.

E. Prior to commencement of construction, the operator shall survey and plat the right-of-way in accordance with local requirements.

**§ 33.2-1861. Utility crossings.**

The applicant shall include in the application a list of public utility facilities and rights-of-way to be crossed or otherwise affected in the construction of the roadway and a plan and schedule for such crossings. The operator and each public utility whose works are to be crossed or affected shall each have the duty to cooperate fully with the other in planning and arranging of the manner of the crossing or relocation of the facilities. Any public service corporation possessing the powers of eminent domain is hereby expressly granted such powers in connection with the moving or relocation of facilities to be crossed by the roadway or which must be relocated to the extent that such moving or relocation is made necessary by construction of the roadway, which shall be construed to include construction of temporary facilities for the purpose of providing service during the period of construction. Should the applicant or operator and the public utility whose facilities are to be crossed or relocated not be able to agree upon a plan for such crossing or any necessary relocation, either party may request the Department to inquire into the need for the crossing or relocation and to decide whether such crossing or relocation should be compelled, and if so, the manner in which such crossing or relocation is to be accomplished and any damages due either party arising out of the crossing or relocation. The Department may in its discretion employ expert engineers who shall examine the location and plans for such crossing or relocation, hear any objections and consider modifications, and make a recommendation to the Department. In such a case, the cost of the experts is to be borne equally by the applicant and the public utility, unless the Department determines that it would be unjust, in which case the cost shall be borne as the Department decides. Railroads shall be included within the scope of the term "public utility" for purposes of this section.

**§ 33.2-1862. Highway and roadway crossings.**

No crossing of a railway, highway, street, road, or alley shall be at grade, but shall pass above or below the railway, highway, street, road, or alley, and such crossings are hereby permitted, subject to the provisions of this chapter.

**§ 33.2-1863. Default.**

In the event of material and continuing default in the performance of the operator's construction or operation duties or failure of the operator to comply with the terms of its agreement with the Department, in either case, after notice thereof and an opportunity to cure, or in the event that construction has not begun within two years of the issuance of a certificate, the Department, after a hearing in which the applicant or operator has notice and opportunity to participate, may revoke the certificate of authority for the roadway, declare a default in the construction or operation of the roadway, and make or cause to be made the appropriate claim or claims under any completion or performance bonds, or take such other action as it may deem appropriate under the circumstances. The Department may initiate such proceedings. In case of revocation of a certificate, the applicant or operator shall thereafter be without any authority to construct or operate the roadway, and the Department may take over construction and operation of the roadway, and may proceed thereafter to take any steps which are in the public interest, including completion of construction or additions to the roadway, closing the roadway, or any intermediate step. The Department shall receive the full proceeds of any payments due to claims against bonding companies or sureties for this purpose. In addition, in such event, the operator shall grant to the Department all of its right, title, and interest in the assets of the operator. Nothing herein shall be construed to limit the Department's exercise of the power of eminent domain. In either case, the operator may obtain compensation from the Department for such

assets, except that the Department shall first deduct from the value of such assets all of its costs incurred in connection with completion or fulfillment of the unperformed obligations of the operator including the payment of any obligations assumed by the Department, and any other costs associated with the events contemplated in this section. The Department shall take into account moneys received from the proceeds of any payment or completion bond in calculating the amount due the operator.

**§ 33.2-1864. Police powers; violations of law.**

A. The roadways and highways constructed or operated under this chapter may be policed in whole or in part by officers of the Department of State Police, even though all or some portion of any such projects lie within the corporate limits of a municipality or other political subdivision, and just as if the roadway and highway were a part of the state highway system. The operator and the Department of State Police shall agree upon reasonable terms and conditions pursuant to which the activities contemplated in this section may take place. 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 of the Commonwealth, within the limits of any highway and roadway. All other police officers of the Commonwealth and of each county, city, town, or other political subdivision of the Commonwealth through which any roadway, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such roadways and highways as they have beyond such limits and shall have access to the highway and roadway at any time for the purpose of exercising such powers and jurisdiction. This authority does not extend to the private offices, buildings, garages, and other improvements of the operator to any greater degree than the police power extends to any other private buildings and improvements.

B. The traffic and motor vehicle laws of the Commonwealth shall apply to persons and motor vehicles on the roadway or highway, as shall Chapter 8 (§ 33.2-800 et seq.), and the powers of arrest of police officers shall be the same as those applying to conduct on the state highway system. Punishment for offenses shall be as prescribed by law for conduct occurring on the state highway system.

**§ 33.2-1865. Termination of certificate; dedication of assets.**

Within 90 days of the completion and closing of the original permanent financing, the operator shall provide full details of the financing, including the terms of all bonds, to the Department and shall certify the term of the original permanent financing and its termination date. The Department may require that the operator provide copies of any relevant documents, and shall review the financing and determine the date of termination of the original permanent financing. After establishing this date, the Department shall enter an order terminating the operator's authority pursuant to the certificate of authority on a date which shall be 10 years from the end of the term of the original permanent financing. At the request of the operator, or on its own initiative, the Department may revise its order to modify the date for termination of the certificate of authority in order to take into account any refinancing of the original permanent financing, where the refinancing or modification is in the public interest, or any refinancing for the purpose of expansion, or early termination of the original permanent financing. Upon the termination of the certificate of authority, the authority and duties of the operator under this chapter shall cease, and the highway assets and improvements of the operator shall be dedicated to the Commonwealth for highway purposes.

**§ 33.2-1866. Improvement Fund.**

There shall be a fund established by the Commonwealth Transportation Board, from the toll revenues described in this section, for the purpose of funding transportation improvements that are related to or affected by the toll road. Toll rates shall be set in multiples of five cents; however, the Department shall order that that percentage of each toll by which the toll established exceeds that necessary to provide the operator with an amount necessary to meet the operator's obligations under § 33.2-1858 and earn a reasonable return shall be committed to the fund. In addition, the operator, the Board, and the local governments through which the road passes may jointly petition the Department to establish an additional toll amount to be committed to this fund.

2. That Chapter 20 (§§ 56-535 through 56-552) of Title 56 of the Code of Virginia is repealed.

3. That the repeal of Chapter 20 (§ 56-535 et seq.) of Title 56 of the Code of Virginia shall not affect any certificate issued by the State Corporation Commission prior to July 1, 2020, and that any act of the State Corporation Commission with respect to the former Chapter 20 (§ 56-535 et seq.) of Title 56 of the Code of Virginia shall remain in effect until superseded by an act of the Department of Transportation pursuant to Chapter 18.3 (§ 33.2-1850 et seq.) of Title 33.2 of the Code of Virginia, as created by this act.