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## HOUSE BILL NO. 1910

Offered January 13, 2021

Prefiled January 9, 2021

A BILL to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3806, relating to the creation of regional transportation authorities.

Patrons—Cole, J.G.; Senator: Surovell

Referred to Committee on Transportation

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

**1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 38, consisting of sections numbered 33.2-3800 through 33.2-3806, as follows:**

**CHAPTER 38.**

**OTHER REGIONAL TRANSPORTATION AUTHORITIES.**

**§ 33.2-3800. Procedure for creation of a regional transportation authority.**

A. The governing bodies of any two or more adjacent counties or cities, may, in conformance with the procedure set forth in this chapter, create a regional transportation authority by adopting ordinances proposing to create an authority that shall (i) set forth the name of the proposed regional transportation authority (that shall include the words "transportation authority"); (ii) name the member localities; (iii) contain findings that the economic growth and development of the locality and the comfort, convenience, and welfare of its citizens require the maintenance and development of transportation facilities and that joint action through a regional transportation authority by the localities that are to be members of the proposed authority will facilitate the development of the needed facilities; and (iv) authorize the execution of an agreement establishing the respective rights and obligations of the member localities with respect to the authority consistent with the provisions of this chapter, including the local taxes, fees, and other sources of revenue that will be contributed by each locality. Such ordinances shall be filed with the Secretary of Transportation. Upon certification by the Secretary that the ordinances required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the proposed authority shall be and constitute an authority for all of the purposes of this chapter, to be known and designated by the name stated in the ordinances. Upon the issuance of such certificate, the authority shall be deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter. Each authority created pursuant to this chapter is hereby created as a political subdivision of the Commonwealth. At any time subsequent to the creation of an authority under this chapter, the membership of the authority may, with the approval of the authority's board, be expanded to include any locality within the region that would have been eligible to be an initial member of the authority. The governing body of a locality seeking to become a member of an existing authority shall evidence its intent to become a member by adopting an ordinance proposing to join the authority that conforms, to the extent applicable, to the requirements for an ordinance set forth in clauses (i), (iii), and (iv).

B. The provisions of this chapter shall not apply to a county or city that is, as of January 1, 2021, a member of a regional transportation authority or program created pursuant to Chapter 25 (§ 33.2-2500 et seq.), Chapter 26 (§ 33.2-2600 et seq.), Chapter 36 (§ 33.2-3600), or Chapter 37 (§ 33.2-3700).

**§ 33.2-3801. Board of the authority.**

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon an authority shall be exercised by a board of directors. The board shall consist of two members for each member locality. The governing body of each member locality shall appoint two members to the board. Any person who is a resident of the Commonwealth may be appointed to the board. However, if an authority has only two member localities, the governing body of each locality may appoint three members each. However, in any instance in which the member localities are not equally contributing funding to the authority, and upon agreement by each member locality, the number of appointments to be made by each locality may be based upon the percentage of local funds contributed by each of the member localities. A member of the Commonwealth Transportation Board who represents a highway construction district in which any locality embraced by the authority is located shall be appointed by the Governor and serve ex officio with voting privileges, and the Commissioner of Highways or his designee shall serve ex officio without voting privileges. Ex officio members shall serve terms concurrent with their term of office. Each other member of the board shall serve for a term of four years and may be reappointed for as many terms as the governing body desires. However, the board may elect to provide

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59 for staggered terms, in which case some members may draw an initial two-year term. If a vacancy  
60 occurs by reason of the death, disqualification, or resignation of a board member, the governing body  
61 of the member locality that appointed the authority board member shall appoint a successor to fill the  
62 unexpired term.

63 Each member locality may appoint up to two alternate board members. Alternates shall be selected  
64 in the same manner as board members, and may serve as an alternate for either board member from  
65 the member locality that appoints the alternate. Alternates shall be appointed for terms that coincide  
66 with one or more of the board members from the member locality that appoints the alternate. If a board  
67 member is not present at a meeting of the authority, the alternate shall have all the voting and other  
68 rights of the board member not present and shall be counted for purposes of determining a quorum.  
69 Alternates are required to take an oath of office and are entitled to reimbursement for expenses in the  
70 same manner as board members.

71 B. Each member of the board shall, before entering upon the discharge of the duties of his office,  
72 take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses  
73 incurred in the performance of their duties from funds available to the authority.

74 C. A quorum shall exist when a majority of the member localities are represented by at least one  
75 member of the board. The affirmative vote of a quorum of the board shall be necessary for any action  
76 taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to  
77 exercise all the rights and perform all the duties of the board. The board shall determine the times and  
78 places of its regular meetings, which may be adjourned or continued, without further public notice, from  
79 day to day, from time to time, or from place to place, but not beyond the time fixed for the next regular  
80 meeting, until the business before the board is completed. Special meetings of the board shall be held  
81 when requested by members of the board representing two or more localities. Any such request for a  
82 special meeting shall be in writing, and the request shall specify the time and place of the meeting and  
83 the matters to be considered at the meeting. A reasonable effort shall be made to provide each member  
84 with notice of any special meeting. No matter not specified in the notice shall be considered at such  
85 special meeting unless all the members of the board are present. Special meetings may be adjourned or  
86 continued, without further public notice, from day to day, from time to time, or from place to place, not  
87 beyond the time fixed for the next regular meeting, until the business before the board is completed.

88 D. Each board shall elect from its membership a chairman for each calendar year. The board may  
89 also appoint an executive director and staff who shall discharge such functions as may be directed by  
90 the board. The executive director and staff shall be paid from funds received by the authority.

91 E. Each board, promptly following the close of the fiscal year, shall submit an annual report of the  
92 authority's activities of the preceding year to the governing body of each member locality. Each such  
93 report shall set forth a complete operating and financial statement covering the operation of the  
94 authority during such year.

95 **§ 33.2-3802. Office of authority; title to property.**

96 Each board shall maintain the principal office of the authority within a member locality. All records  
97 shall be kept at such office. The title to all property of every kind belonging to an authority shall be  
98 titled to the authority, which shall hold it for the benefit of its member localities.

99 **§ 33.2-3803. Powers of the authority.**

100 Each authority is vested with the powers of a body corporate, including the power to sue and be  
101 sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as  
102 may be deemed expedient. In addition to the powers set forth elsewhere in this chapter, an authority  
103 may:

104 1. Adopt bylaws, rules, and regulations to carry out the provisions of this chapter;

105 2. Employ, either as regular employees or as independent contractors, consultants, engineers,  
106 architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents,  
107 managers and other professional personnel, and agents as may be necessary in the judgment of the  
108 authority, and fix their compensation;

109 3. Determine the locations of, develop, establish, construct, erect, repair, remodel, add to, extend,  
110 improve, equip, operate, regulate, and maintain facilities to the extent necessary or convenient to  
111 accomplish the purposes of the authority;

112 4. Acquire, own, hold, lease, use, sell, encumber, transfer, or dispose of, in its own name, any real  
113 or personal property or interests therein;

114 5. Invest and reinvest funds of the authority;

115 6. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect  
116 to carrying out the powers in this chapter to accomplish the purposes of the authority;

117 7. In consultation with the Commonwealth Transportation Board for projects that encompass a state  
118 highway, and with each county or city in which the facility or any part thereof is to be located, repair,  
119 expand, enlarge, construct, or renovate any or all highways, bridges, and tunnels within the member  
120 localities and acquire any real or personal property needed for any such purpose;

121 8. Enter into agreements or leases with public or private entities for the operation and maintenance  
122 of bridges, transit and rail facilities, and highways;

123 9. Borrow money from any source for any valid purpose, including working capital for its  
124 operations, reserve funds, or interest; mortgage, pledge, or otherwise encumber the property or funds of  
125 the authority; and contract with or engage the services of any person in connection with any financing,  
126 including financial institutions, issuers of letters of credit, or insurers;

127 10. Issue bonds;

128 11. Accept funds and property from the Commonwealth, persons, counties, cities, and towns, and use  
129 the same for any of the purposes for which the authority is created;

130 12. To exercise the powers of a locality pursuant to § 33.2-269;

131 13. To the extent not inconsistent with the other provisions of this chapter, and without limiting or  
132 restricting the powers otherwise given the authority, to exercise all of the powers given to transportation  
133 district commissions by § 33.2-1919;

134 14. Apply for and accept grants, loans of money, or other property from any federal agency for any  
135 of the purposes authorized in this chapter and expend or use the same in accordance with the directions  
136 and requirements attached thereto or imposed thereon by any such federal agency; and

137 15. Do all things necessary or convenient to carry out the purposes of this chapter.

138 **§ 33.2-3804. Authority to issue bonds.**

139 Each authority may issue bonds and other evidences of debt as may be authorized by this section or  
140 other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis,  
141 to the issuance of such bonds or other debt. The authority may issue bonds or other debt in such  
142 amounts as it deems appropriate. The bonds may be supported by any funds available.

143 **§ 33.2-3805. Forms of accounts and records; audit of same.**

144 The accounts and records of an authority showing the receipt and disbursement of funds from  
145 whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided  
146 that such accounts correspond as nearly as possible to the accounts and records for such matters  
147 maintained by corporate enterprises. The accounts and records of an authority shall be subject to audit  
148 pursuant to § 30-140, and the costs of such audit services shall be borne by the authority. An  
149 authority's fiscal year shall be the same as the Commonwealth's.

150 **§ 33.2-3806. Dissolution of authority.**

151 A member locality of an authority may withdraw from the authority only (i) upon dissolution of the  
152 authority as set forth in this chapter or (ii) with the majority approval of all other members of such  
153 authority, upon a resolution adopted by the governing body of a member locality and after satisfaction  
154 of such member locality's legal obligations, including repayment of its portion of any debt incurred, with  
155 regard to the authority, or after making contractual provisions for the repayment of its portion of any  
156 debt incurred, with regard to the authority, as well as pledging to pay general dues for operation of the  
157 authority for the current and succeeding fiscal year following the effective date of withdrawal. No  
158 member seeking withdrawal shall retain, without the consent of a majority of the remaining members,  
159 any rights to contributions made by such member, to any property held by such authority or to any  
160 revenue sharing as allowed by §§ 15.2-6406 and 15.2-6407. Upon withdrawal, the withdrawing member  
161 shall also return to the authority any dues or other contributions refunded to such member during its  
162 membership in the authority. Whenever the board determines that the purpose for which the authority  
163 was created has been substantially fulfilled or is impractical or impossible to accomplish and that all  
164 obligations incurred by the authority have been paid or that cash or a sufficient amount of United  
165 States government securities has been deposited for their payment, or provisions satisfactory for the  
166 timely payment of all its outstanding obligations have been arranged, the board may adopt resolutions  
167 declaring and finding that the authority shall be dissolved. Appropriate attested copies of such  
168 resolutions shall be delivered to the Governor so that legislation dissolving such authority may be  
169 introduced in the General Assembly. The dissolution of an authority shall become effective according to  
170 the terms of such legislation. The title to all funds and other property owned by such authority at the  
171 time of such dissolution shall vest in the member localities that have contributed to the authority in  
172 proportion to their respective contributions.