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HOUSE BILL NO. 1875

Offered January 20, 1995

A BILL to amend and reenact §§ 33.1-1, 33.1-3, 33.1-4, and 33.1-8 of the Code of Virginia, relating to the Commonwealth Transportation Board, the Commonwealth Transportation Commissioner, and Department of Transportation employees and officials.

Patrons—Fisher, Kidd, McClure, Orrock and Wilkins; Senators: Howell, Stosch and Woods

Referred to Committee on Roads and Internal Navigation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-1, 33.1-3, 33.1-4, and 33.1-8 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; vacancies.

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of sixteen members, who shall be appointed by the Governor subject to confirmation by the General Assembly, and who shall be removable from office during their respective terms by the Governor at his pleasure. Appointments shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until thirty days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No person shall be eligible to serve more than two successive terms of four years, other than as Secretary of Transportation or Commonwealth Transportation Commissioner. A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as Chairman of the Board. The Secretary shall have voting privileges only in the event of a tie. The Commonwealth Transportation Commissioner shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman.

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" shall mean "Commonwealth Transportation Commissioner"; and "Deputy State Highway Commissioner" or "Deputy State Highway and Transportation Commissioner" shall mean "Deputy Commonwealth Transportation Commissioner," and all references to "Department of Highways and Transportation" shall refer to the Department of Transportation.

§ 33.1-3. Secretary to be Chairman; Commonwealth Transportation Commissioner.

The Chairman, whose official title shall be Secretary of Transportation, and who may, at the time of his appointment, be a nonresident of Virginia, shall be an experienced administrator, able to direct and guide the Department in the establishment and achievement of the Commonwealth's long-range highway and other transportation objectives and shall be appointed at large.

The Commonwealth Transportation Commissioner, hereinafter in this title sometimes called "the Commissioner," shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by the Governor, subject to the approval of the Board, unless such salary be fixed by the General Assembly in the appropriation act. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation or removal of the Commissioner, the Governor may appoint and thereafter remove at his pleasure an "Acting Commonwealth Transportation Commissioner" until such time as the vacancy may be filled as provided in § 33.1-1. Such "Acting Commonwealth Transportation Commissioner" shall have all powers and perform all duties of the Commissioner as provided by law, and shall receive such compensation as may be fixed by the Governor. All acts performed by the Deputy Commissioner between the time of any such vacancy and the effective date of the appointment of an "Acting Commonwealth Transportation

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60 Commissioner" or the Commonwealth Transportation Commissioner appointed to fill such vacancy are
61 hereby validated. In the event of the temporary disability, for any reason, of the Commissioner, full
62 effect shall be given to the provisions of § 2.1-20.

63 § 33.1-4. How testimony of members of Board and Commissioner taken in civil proceedings.

64 No member of the Commonwealth Transportation Board; *or* the Commonwealth Transportation
65 Commissioner ~~or the Deputy Commonwealth Transportation Commissioner~~ shall be required to leave his
66 office for the purpose of testifying in any suit, action or other civil proceeding involving any of their
67 official duties, but the deposition of any member of the Commonwealth Transportation Board; *or* the
68 Commonwealth Transportation Commissioner ~~or the Deputy Commonwealth Transportation~~
69 ~~Commissioner~~ may be taken at the main office of the Commission in Richmond, after reasonable notice
70 in writing has been given to the adverse party.

71 Any deposition taken pursuant to this section may be read in the pending suit, action or other civil
72 proceeding. However, on motion to the court, filed at least ten days before the commencement of the
73 trial, the judge may, for good cause shown, require any member of the Board; *or* the Commissioner ~~or~~
74 ~~the Deputy Commissioner~~ to attend and testify *ore tenus*.

75 § 33.1-8. Chief engineer and other employees; Deputy Commissioner.

76 The Commonwealth Transportation Commissioner shall employ a chief engineer, a Deputy
77 Commissioner and such other engineers, clerks, assistants, and other employees as may be needed, and
78 shall prescribe and fix their duties, *including the delegation of duties and responsibilities conferred or*
79 *imposed upon the Commissioner by law*. They shall receive all salaries and expenses as may be fixed in
80 accordance with the provisions of law. The chief engineer shall be responsible for highway design;
81 construction and maintenance under the direction of the Commissioner. The Deputy Commissioner shall
82 be responsible for highway and transportation planning, project programming and scheduling, financial
83 planning and general administration of the department under the direction of the Commissioner. The
84 Commissioner may delegate to the chief engineer and Deputy Commissioner such of the Commissioner's
85 duties as may fall within their respective areas of responsibility. In the event of vacancy due to death,
86 temporary disability, retirement, resignation or removal of the Commissioner, the Deputy Commissioner
87 shall assume the responsibilities of the Commissioner until such time as the Governor shall appoint an
88 acting Commonwealth Transportation Commissioner pursuant to § 33.1-3.