

LD7379346

## HOUSE BILL NO. 2482

Offered January 23, 1995

*A BILL to amend and reenact §§ 15.1-1372.22, 15.1-1372.23, 15.1-1372.25, 15.1-1372.26, and 15.1-1372.27 of the Code of Virginia, relating to primary highway transportation improvement district in individual counties.*

Patrons—McClure; Senator: Barry

Referred to Committee on Counties, Cities and Towns

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

**1. That §§ 15.1-1372.22, 15.1-1372.23, 15.1-1372.25, 15.1-1372.26, and 15.1-1372.27 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-1372.22. Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless context indicates another meaning or intent:

"Commission" shall mean the governing body of the local district.

"Cost" shall mean all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, utilities, parking, or enlargement of a public mass transit system or highway, *soundwalls or sound barriers* which ~~is~~*are* located in localities which are authorized by this chapter to create a transportation improvement district, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses and such other expenses as may be necessary or incident to the construction of the project, or creation of the district (which shall not exceed \$150,000), and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicability of such construction, the cost of financing such construction, additions or expansion and placing the project and such additions or expansion in operation.

"District" or "local district" shall mean any transportation improvement district created under the provisions of § 15.1-1372.23.

"District advisory board" or "advisory board" shall mean the board appointed by the commission in accordance with § 15.1-1372.25.

"Federal agency" shall mean and include the United States of America or any department, bureau, agency, or instrumentality thereof.

"Locality" shall mean (i) any county that has the county executive form of government and is located adjacent to a county with a population of more than 500,000, (ii) any county that has been granted a county charter and has a population of more than 100,000, and (iii) any city that is located adjacent to a county that has been granted a county charter and has a population of more than 100,000.

"Owner" or "landowner" shall mean the person or entity which has the usufruct, control or occupation of the taxable real property as determined by the commissioner of revenue of the jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

"Revenues" shall mean any or all fees, tolls, taxes, rents, notes, receipts, assessments, moneys and income derived by the local district and shall include any cash contributions or payments made to the local district by the Commonwealth or any agency, department or political subdivision thereof or by any other source.

"Town" shall mean any town having a population of more than 1,000 as determined by the 1980 census.

"Transportation improvements" shall mean any and all real or personal property utilized in constructing and improving any public mass transit system or any highway or portion or interchange thereof including utilities and parking facilities within the secondary, primary, or interstate highway system of the Commonwealth or any highway included in the county's land use and transportation plan located within the district created pursuant to § 15.1-1372.23. Such improvements shall include, without limitation, public mass transit systems or public highways, all buildings, structures, approaches,

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60 *soundwalls, sound barriers, and other facilities and appurtenances thereto, rights-of-way, bridges,*  
61 *tunnels, transportation stations, terminals, areas for parking and all related equipment and fixtures.*

62 § 15.1-1372.23. Creation of district.

63 A. A transportation improvement district shall be created under this chapter only by the resolution of  
64 the local governing body, upon the petition to the local governing body in which the proposed district is  
65 located, of the owners of at least fifty-one percent of either the land area or assessed value of land in  
66 each locality which is within the boundaries of the proposed district and which has been zoned for  
67 commercial or industrial use or is used for such purposes or which, in a county with a population of  
68 more than 100,000 which has been granted a county charter, fifty-one percent of the owners of land  
69 which is designated for such purposes in the county's land use and transportation plan and is not zoned  
70 for residential use at the time the district is created. *In addition, a local governing body may create a*  
71 *transportation improvement district, upon the petition to the local governing body in which the proposed*  
72 *district is located of the owners of at least fifty-one percent of entire land area or assessed value of*  
73 *land in each locality which is within the boundaries of the proposed district and which has been zoned*  
74 *for commercial, industrial or residential use and which district will be formed for the purpose of*  
75 *construction, maintaining or removing sound walls or sound barriers.*

76 The roads, intersections, and rights-of-way thereof which form boundaries of these districts shall be  
77 considered as part of each respective district. Any proposed district may include any land within a town  
78 in such county. Such petitions should:

79 1. Set forth the name and describe the boundaries of the proposed district;

80 2. Describe the transportation facilities proposed within the district;

81 3. Describe a proposed plan for providing such transportation facilities as proposed within the district  
82 and describe specific terms and conditions with respect to all commercial and industrial zoning  
83 classifications and uses, densities, and criteria related thereto which the petitioners request for the  
84 proposed district;

85 4. Describe the benefits which can be expected from the provision of such transportation facilities  
86 within the district; and

87 5. Request the local governing body to establish the proposed district for the purposes set forth in the  
88 petition.

89 B. Upon the filing of such a petition, the board of supervisors shall fix a day for a hearing on the  
90 question of whether the proposed district shall be created. The hearing shall consider whether or not the  
91 residents and owners of real property within the proposed district would benefit from the establishment  
92 of the proposed district. All interested persons who either reside in or who own taxable real property  
93 within the boundaries of the proposed district shall have the right to appear and show cause why any  
94 property or properties should not be included in the proposed district. If real property situate within a  
95 town is included in the proposed district, the board of supervisors shall deliver a copy of the petition  
96 and notice of the public hearing thereon to the town council at least thirty days prior to the public  
97 hearing, and the town council may, by resolution duly passed, determine if it wishes such property  
98 located within the town to be included within the proposed district, and shall deliver a copy of any such  
99 resolution to the board of supervisors at the public hearing required hereunder, which resolution shall be  
100 binding upon the board of supervisors with respect to the inclusion or exclusion of such properties  
101 within the proposed district. The petition shall comply with the provisions of § 15.1-1372.3 with respect  
102 to minimum acreage or assessed valuation. Notice of the hearing shall be given by publication once a  
103 week for three consecutive weeks in a newspaper of general circulation within the locality. At least ten  
104 days shall intervene between the third publication and the date set for the hearing.

105 C. If the local governing body finds the creation of the proposed district would be in furtherance of  
106 the applicable comprehensive plan for the development of the area, in the best interests of the residents  
107 and owners of real property within the proposed district, and in furtherance of the public health, safety,  
108 and general welfare, the governing body of the qualifying county may, and the governing body of the  
109 qualifying city may, at its option, pass a resolution, which shall be reasonably consistent with the  
110 petition, creating the district and providing for the appointment of an advisory board in accordance with  
111 § 15.1-1372.25. The resolution shall provide: (i) a description with specific terms and conditions of all  
112 commercial and industrial zoning classifications which shall be in force in the district upon its creation,  
113 together with any related criteria, and a term of years, not to exceed twenty years, as to which each such  
114 zoning classification and each related criteria set forth therein shall remain in force within the district  
115 without elimination, reduction, or restriction, except upon the written request or approval of the owner  
116 of any property affected by a change, or as specifically required to comply with the Chesapeake Bay  
117 Preservation Act (§ 10.1-2100 et seq.) or other state law; and (ii) that the district shall expire either  
118 thirty-five years from the date upon which the resolution is passed or until the district is abolished in  
119 accordance with § 15.1-1372.35. After the public hearing, the local governing body shall deliver a true  
120 copy of its proposed resolution creating the district to the petitioning landowners or their  
121 attorney-in-fact. Any petitioning landowner may then withdraw its signature on the petition in writing at

any time prior to the vote of the local governing body. In the case where any signatures on the petition are withdrawn as provided herein, the local governing body may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A of this section with respect to minimum acreage or assessed value as the case may be. After the local governing body has adopted resolutions creating the district, the district shall be established and the name of the district shall be "The ..... Transportation Improvement District."

D. No district shall be created under this chapter after June 30, 1993.

*E. A transportation improvement district for the purpose of soundwalls or sound barriers may be created after June 30, 1993.*

§ 15.1-1372.25. Creation of district advisory boards.

Within thirty days after the establishment of a district in accordance with the procedures provided in § 15.1-1372.23, the local governing body shall appoint a district advisory board of seven members. All members shall reside on or own or represent commercially or industrially zoned land within the district. *For transportation improvement districts established for the purpose of soundwalls or sound barriers, all members shall reside or own residential, commercial or industrial property within the district.* Should there not be enough residents or landowners within a district to appoint a seven-member advisory board, then such board shall consist of the lesser number of existing residents or landowners. Each member shall be appointed for a definite term of four years, except the initial appointment of advisory board members shall provide that the terms of three of the members shall be for two years. If a vacancy occurs with respect to an advisory member initially appointed by a local governing body, or any successor of such a member, the local governing body shall appoint a new member who is a representative or owner of commercially or industrially zoned property within the local district.

The members shall serve without pay, but the local governing body shall provide the advisory board with facilities for the holding of meetings, and the commission shall appropriate funds needed to defray the reasonable expenses and fees of the advisory board which shall not exceed \$20,000 annually, including without limitation expenses and fees arising out of the preparation of the annual report. Such appropriations shall be based on an annual budget submitted by the board, and approved by the commission, sufficient to carry out its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The board shall fix the time for holding regular meetings, but it shall meet at least once every year. Special meetings of the board shall be called by the chairman or by two members of the board upon written request to the secretary of the board. A majority of the members shall constitute a quorum.

The advisory board shall present an annual report to the commission on the transportation needs of the district and on the activities of the board, and the advisory board shall present special reports on transportation matters as requested by the commission or the local governing body of the locality concerning taxes to be levied pursuant to § 15.1-1372.27.

§ 15.1-1372.26. Powers and duties of commission.

The commission shall have the following powers and duties:

1. To construct, reconstruct, alter, improve, and expand any public mass transit system or highway located within the district which is located in the county which comprises the district, and which was not financed under the authority provided by the Commonwealth of Virginia Transportation Facilities Bond Act of 1979.

2. To acquire by gift, purchase, lease, in-kind contribution to construction costs, or otherwise any public mass transit system or highway transportation improvements in the district and to sell, lease as lessor, transfer or dispose of any part of any transportation improvements in such manner and upon such terms as the commission may determine to be in the best interests of the district. However, prior to disposing of any such property or interest therein, the commission shall conduct a public hearing with respect to such disposition. At the hearing, the residents and owners of property within the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the district, as prescribed by the commission. Such public hearing may be adjourned from time to time.

3. To negotiate and contract with any person, firm, corporation, authority, transportation district, state or federal agency or instrumentality with regard to any matter necessary and proper to provide any public mass transit system or highway transportation facility, including, but not limited to, the financing, acquisition, construction, reconstruction, alteration, improvement, expansion or maintenance of any transportation improvements in the district. No such contract shall extend for a period that exceeds thirty years.

4. To enter into a continuing service contract for a purpose authorized by this chapter and to make payments of the proceeds received from the special taxes levied pursuant to § 15.1-1372.27, together with any other revenues, for the payment of installments due under that service contract. The district may apply such payments annually during the term of that service contract in an amount sufficient to

183 make the installment payments due under that contract, subject to the limitation imposed by  
184 § 15.1-1372.27, but payments for any such service contract shall be conditioned upon the receipt of  
185 services pursuant to the contract. Such a contract may not obligate a county to make payments for  
186 services of the district.

187 5. To accept the allocations, contributions or funds of, or to reimburse from, any available source,  
188 including, but not limited to, any person, corporation, authority, transportation district, state or federal  
189 agency or instrumentality for either the whole or any part of the costs, expenses and charges incident to  
190 the acquisition, construction, reconstruction, maintenance, alteration, improvement, and expansion of any  
191 transportation improvements in the district.

192 6. To contract for the extension and use of any transportation improvements into territory outside of  
193 the local district on such terms and conditions as the commission determines.

194 7. To employ and fix the compensation of personnel which may be deemed necessary for the  
195 construction, operation or maintenance of any transportation improvements in the district.

196 8. To have prepared an annual audit of the district's financial obligations and revenues, and upon  
197 review of such audit, to request a tax rate adequate to provide tax revenues which, together with all  
198 other revenues, are required by the district to fulfill its annual obligations.

199 9. *To construct, reconstruct, alter, improve and expand any soundwalls or sound barriers located*  
200 *with the district.*

201 § 15.1-1372.27. Annual special improvements tax; use of revenues.

202 Upon the written request of the district commission made to the local governing body pursuant to  
203 subdivision 8 of § 15.1-1372.26, the local governing body shall have the power to levy and collect an  
204 annual special improvements tax on taxable real property zoned for commercial or industrial use or used  
205 for such purposes and leasehold interests in that portion of the improvement district within its  
206 jurisdiction *or on taxable real estate property zoned for residential, commercial or industrial use within*  
207 *its jurisdiction where the district is dedicated to soundwalls and sound barriers.* Notwithstanding the  
208 provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, the tax shall be levied upon the  
209 assessed fair market value of the taxable real property. The rate of the special improvements tax shall  
210 not be more than \$0.20 per \$100 of the assessed fair market value of any taxable real estate or the  
211 assessable value of taxable leasehold property as specified by § 58.1-3203; however, if all the owners in  
212 any district so request, this limitation on rate shall not apply. Such special improvements taxes shall be  
213 collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds  
214 shall be kept in a separate account. All revenues received by the locality pursuant to such taxes shall be  
215 paid over to the district commission for its use pursuant to § 15.1-1372.26.