

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [S 1082]

6 Approved

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

8 **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**  
 9 **follows:**

10 § 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation  
 11 Board; number and terms of members; removal from office; vacancies.

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

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

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

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

39 § 33.1-3. Secretary to be Chairman; Commonwealth Transportation Commissioner.

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

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

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

57 hereby validated. In the event of the temporary disability, for any reason, of the Commissioner, full  
58 effect shall be given to the provisions of § 2.1-20.

59 § 33.1-4. How testimony of members of Board and Commissioner taken in civil proceedings.

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

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

71 § 33.1-8. Employees; delegation of responsibilities.

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