

LD4902727

SENATE BILL NO. 869

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Roads and Internal Navigation
on February 14, 1995)

(Patron Prior to Substitute—Senator Reasor)

A BILL to amend and reenact §§ 33.1-72.1 and 33.1-75.1 of the Code of Virginia, relating to taking streets into the secondary highway system; special funds for certain counties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-72.1 and 33.1-75.1 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-72.1. Taking certain streets into secondary system.

A. "Street," as used in this section, means a street or highway shown on a plat which was recorded or otherwise opened to public use prior to July 1, 1983 1985, at which time it was open to and used by motor vehicles, and which, for any reason, has not been taken into the secondary system of state highways and serves at least three families per mile.

B. "County," as used in this section, means a county in which the secondary system of the state highways is constructed and maintained by the Department of Transportation and which has adopted a local ordinance for control of the development of subdivision streets to the necessary standards for acceptance into the secondary system.

C. Whenever the governing body of a county recommends in writing to the Department of Transportation that any street in the county be taken into and become a part of the secondary system of the state highways in such county, the Department of Transportation thereupon, within the limit of available funds and the mileage available in such county for the inclusion of roads and streets in the secondary system, shall take such street into the secondary system of state highways for maintenance, improvement, construction and reconstruction if such street, at the time of such recommendation, either: (i) has a minimum dedicated width of forty feet or (ii) in the event of extenuating circumstances as determined by the Commonwealth Transportation Commissioner, such street has a minimum dedicated width of thirty feet at the time of such recommendation. In either case such streets must have easements appurtenant thereto which conform to the policy of the Commonwealth Transportation Board with respect to drainage. After the streets are taken into the secondary system of state highways, the Department shall maintain the same in the manner provided by law. Such street shall only be taken into the secondary system of state highways if the governing body of the county agrees to contribute from county revenue or the special assessment of the landowners on the street in question one-half of the cost to bring the streets up to the necessary minimum standards for acceptance. No such special assessment of landowners on such streets shall be made unless the governing body of the county receives written declarations from the owners of seventy-five percent or more of the platted parcels of land abutting upon such street stating their acquiescence in such assessments. The basis for such special assessments, at the option of the local governing body, shall be either (i) the proportion the value of each abutting parcel bears to total value of all abutting parcels on such street as determined by the current evaluation of the property for real estate tax purposes, or (ii) the proportion the abutting road front footage of each parcel abutting the street bears to the total abutting road front footage of all parcels abutting on the street, or (iii) an equal amount for each parcel abutting on such street. No such special assessment on any parcel shall exceed one-third of the current evaluation of such property for real estate tax purposes. Such streets are eligible under this provision only if neither the original developer, developers, nor successor developers retain a speculative interest in property abutting such streets. For the purpose of this section, ownership or partnership in two or more parcels, or equivalent frontage, abutting such streets shall constitute speculative interest. Special assessments under this section shall be conducted in the manner provided in Article 2 (§ 15.1-239 et seq.) of Chapter 7 of Title 15.1, mutatis mutandis, for assessments for local improvements.

D. Whenever the governing body of a county recommends in writing to the Department of Transportation that any street in the county be taken into the secondary system of state highways as a rural addition to the secondary system in such county, the Department of Transportation thereupon shall, within the limitation of funds and the mileage limitation of the Commonwealth Transportation Board's policy on rural additions, take such street into the secondary system of state highways as a rural addition thereto for maintenance, improvement, construction, and reconstruction. Any street added to the secondary system under this provision shall be constructed to the Department's standards for the traffic served. Such streets are eligible under this provision only if neither the original developer, developers, nor successor developers retain a speculative interest, as herein defined, in property abutting such streets.

E. In instances where it is determined that speculative interest is retained by the original developer, developers, or successor developers and the governing body of the county deems that extenuating

60 circumstances exist, the governing body of the county shall require a pro rata participation by such
61 original developer, developers or successor developers as a condition of the county's recommendation
62 pursuant to this section. The basis for the pro rata percentage required of such developer, developers, or
63 successor developers shall be the proportion that the value of the abutting parcels owned or partly
64 owned by the developer, developers, or successor developers bears to the total value of all abutting
65 property as determined by the current evaluation of the property for real estate purposes. The pro rata
66 percentage shall be applied to the Department of Transportation's total estimated cost to construct such
67 street to the necessary minimum standards for acceptance to determine the amount of costs to be borne
68 by the developer, developers, or successor developers. Property so evaluated shall not be assessed in the
69 special assessment for the determination of the individual pro rata share attributable to other properties.
70 Further, when such pro rata participation is accepted by the governing body of the county from such
71 original developer, developers, or successor developers, such amount shall be deducted from the
72 Department of Transportation's total estimated cost and the remainder of such estimated cost shall then
73 be the basis of determining the assessment under the special assessment provision or determining the
74 amount to be provided by the county when funded from general county revenue under subsection C of
75 this section or determining the amount to be funded as a rural addition under subsection D of this
76 section.

77 F. Acceptance of any street into the secondary system of state highways for maintenance,
78 improvement, construction, and reconstruction shall not impose any obligation on the Board to acquire
79 any additional right-of-way or easements should they be necessary by virtue of faulty construction or
80 design.

81 G. The local governing body of the county may expend general county revenue for the purposes of
82 this section.

83 H. The local governing body of the county may permit one or more of the landowners on the street
84 in question to pay to the county a sum equal to one-half of the cost to bring the street up to the
85 necessary minimum standards for acceptance into the secondary system of state highways, which funds
86 the county shall then utilize for such purpose. Thereafter, upon collection of the special assessment of
87 landowners on such street, the county shall use such special assessment funds to reimburse, without
88 interest, the one or more landowners for those funds which they previously advanced to the county to
89 bring the street up to the necessary minimum standards for acceptance.

90 I. Any funds allocated for use within any county for the purpose of adding to the secondary system
91 of highways, if not used by such county for such purpose during the fiscal year they are so allocated,
92 may be held for such purpose for the three succeeding fiscal years.

93 § 33.1-75.1. Special funds for systems in certain counties.

94 A. From, and as a first priority of, annual allocations of state funds for the maintenance,
95 improvement, construction, or reconstruction of the systems of state highways, the Commonwealth
96 Transportation Board shall make an equivalent matching allocation to any county for designations by the
97 governing body of up to twenty-five percent or \$500,000, whichever is greater, of funds received by it
98 during the current fiscal year pursuant to the State and Local Fiscal Assistance Act of 1972, hereinafter
99 referred to as "revenue sharing funds," for use by the Commonwealth Transportation Board to construct,
100 maintain or improve the primary and secondary highway systems within such county. Such funds
101 appropriated by the Commonwealth Transportation Board and such federal revenue sharing funds shall
102 be placed in special fund accounts of the Board and county, respectively, both to be known as the
103 "..... County primary and secondary road fund," and shall be used solely for the purposes of
104 either (i) maintaining, improving or constructing the primary and secondary highway systems within
105 such county, or (ii) bringing subdivision streets, used as such prior to July 1, 1983 1985, up to standards
106 sufficient to qualify them for inclusion in the state primary and secondary system of highways. The
107 governing body may place an equivalent amount from county general funds in such fund in lieu of such
108 federal revenue sharing funds. After due consultation and exchange of recommendations with the Board,
109 the governing body of such county shall determine what portion of such funds shall be used for
110 construction, and what portion for maintenance or improvement, of primary and secondary roads in such
111 county. That portion so designated by the governing body for construction shall be allocated to specific
112 projects by the Board; that portion designated by the governing body for maintenance or improvement
113 shall be allocated to specific roads by the governing body. The county shall pay over to the Board that
114 amount of its special fund account needed for a project upon notice by the Board of its intent to
115 proceed with the project. Projects identified by the board of supervisors for construction with revenue
116 sharing funds need not be included in the county's six-year plan.

117 B. Upon indication by the resident engineer of a county that a project or projects funded pursuant to
118 subsection A of this section cannot be implemented by the Department of Transportation within the
119 fiscal year for which such revenue sharing funds have been allocated, the Department may contract with
120 the county for the implementation of the project or projects by the county. Such contract may cover
121 either a single project or may provide for the county's implementation of several projects during the

fiscal year. Upon approval by the Department, the county may expend from its special fund created under subsection A of this section funds to undertake the implementation of a particular project or projects. The county will undertake implementation of the particular project or projects by obtaining the necessary permits from the Department of Transportation in order to ensure that the improvement is consistent with the Department's standards for such improvements.

C. Total state funds allocated statewide under this section shall not exceed ten million dollars in any one fiscal year.

D. Notwithstanding the limitations specified in subsection A of this section, one month prior to the end of any fiscal year in which less than \$10 million has been allocated from state funds under this section, those counties requesting more than \$500,000 may be allowed an additional allocation. The difference between the amount first allocated and \$10 million shall be allocated at the discretion of the Commonwealth Transportation Board among the counties receiving the maximum allocation under subsection A of this section.