

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 729

An Act to amend and reenact § 33.1-70.1 of the Code of Virginia, relating to paving of certain secondary roads.

[H 2403]

Approved March 22, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-70.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-70.1. Requesting Department to hard-surface secondary road; paving of certain secondary roads within existing rights-of-way.

A. Whenever the governing body of any county, after consultation with personnel of the Department of Transportation, ~~may adopt~~ *adopts* a resolution requesting the Department of Transportation to hard-surface any secondary road in such county ~~which~~ *that* carries fifty or more vehicles per day with a hard surface of width and strength adequate for such traffic volume, the Department of Transportation shall give consideration to such resolution in establishing priority in expending the funds allocated to such county. The Department shall consider the paving of roads with a right-of-way width of less than forty feet *under this subsection* when land is, has been, or can be acquired by gift for the purpose of constructing a hard-surface road.

B. *Notwithstanding the provisions of subsection A of this section, any unpaved secondary road that carries at least fifty but no more than 750 vehicles per day may be paved or improved and paved within its existing right-of-way or within a wider right-of-way that is less than forty feet wide if the following conditions are met:*

1. *The governing body of the county in which the road is located has requested paving of such road as part of the six-year plan for the county under § 33.1-70.01 and transmitted that request to the Commonwealth Transportation Commissioner.*

2. *The Commonwealth Transportation Commissioner, after having considered only (i) the safety of such road in its current condition and in its paved or improved condition, including the desirability of reduced speed limits and installation of other warning signs or devices, (ii) the views of the residents and owners of property adjacent to or served by such road, (iii) the views of the governing body making the request, (iv) the historical and aesthetic significance of such road and its surroundings, (v) the availability of any additional land that has been or may be acquired by gift or other means for the purpose of paving such road within its existing right-of-way or within a wider right-of-way that is less than forty feet wide, and (vi) environmental considerations, shall grant or deny the request for the paving of such road under this subsection.*

The Commonwealth, its agencies, instrumentalities, departments, officers, and employees acting within the scope of their duties and authority shall be immune for damages by reason of actions taken in conformity with the provisions of this subsection. Immunity for the governing body of any political subdivision requesting paving under this subsection and the officers and employees of any such political subdivision shall be limited to that immunity provided pursuant to § 15.1-7.01.

The provisions of this subsection shall expire on July 1, 1999.