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## HOUSE BILL NO. 273

Offered January 15, 1998

*A BILL to amend and reenact § 33.1-72.1 of the Code of Virginia, relating to taking streets into the secondary system of state highways for maintenance purposes.*

Patrons—Tate, Cantor, Cranwell, Davies, Diamonstein, Dickinson, Drake, Hall, Jackson, McClure, Robinson, Stump, Van Yahres and Woodrum; Senators: Barry, Houck, Reasor, Saslaw and Watkins

Referred to Committee on Transportation

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

**1. That § 33.1-72.1 of the Code of Virginia is 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, 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. *If the local government requires street construction standards other than those set forth in the Virginia Department of Transportation's Subdivision Street Requirements (24 VAC 30-90-10 et seq. of the Virginia Administrative Code) on and after January 1, 1998, any increase in the annual cost of maintenance attributable to such other construction standards shall be paid to the Department by the local government.* 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~~15.2-2404 et seq.) of Chapter 724 of Title ~~15.1~~15.2, 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

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60 policy on rural additions, take such street into the secondary system of state highways as a rural addition  
61 thereto for maintenance, improvement, construction, and reconstruction. Any street added to the  
62 secondary system under this provision shall be constructed to the Department's standards for the traffic  
63 served. Such streets are eligible under this provision only if neither the original developer, developers,  
64 nor successor developers retain a speculative interest, as herein defined, in property abutting such streets.  
65 The local governing body of any county may use revenues derived from the sale of bonds to finance the  
66 construction of rural additions to the secondary system of such county. In addition, from the funds  
67 allocated by the Commonwealth for the construction of secondary road improvements, such governing  
68 body may use funds allocated within the Commonwealth Transportation Board policy for the  
69 construction of rural additions to pay principal and interest on bonds associated with rural additions in  
70 such county, provided however, the revenue derived from the sale of such bonds is not used as the  
71 county matching contribution under § 33.1-75.1. The provisions of this section shall not constitute a debt  
72 or obligation of the Commonwealth Transportation Board or the Commonwealth of Virginia.

73 E. In instances where it is determined that speculative interest is retained by the original developer,  
74 developers, or successor developers and the governing body of the county deems that extenuating  
75 circumstances exist, the governing body of the county shall require a pro rata participation by such  
76 original developer, developers or successor developers as a condition of the county's recommendation  
77 pursuant to this section. The basis for the pro rata percentage required of such developer, developers, or  
78 successor developers shall be the proportion that the value of the abutting parcels owned or partly  
79 owned by the developer, developers, or successor developers bears to the total value of all abutting  
80 property as determined by the current evaluation of the property for real estate purposes. The pro rata  
81 percentage shall be applied to the Department of Transportation's total estimated cost to construct such  
82 street to the necessary minimum standards for acceptance to determine the amount of costs to be borne  
83 by the developer, developers, or successor developers. Property so evaluated shall not be assessed in the  
84 special assessment for the determination of the individual pro rata share attributable to other properties.  
85 Further, when such pro rata participation is accepted by the governing body of the county from such  
86 original developer, developers, or successor developers, such amount shall be deducted from the  
87 Department of Transportation's total estimated cost and the remainder of such estimated cost shall then  
88 be the basis of determining the assessment under the special assessment provision or determining the  
89 amount to be provided by the county when funded from general county revenue under subsection C of  
90 this section or determining the amount to be funded as a rural addition under subsection D of this  
91 section.

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

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

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

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