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**HOUSE BILL NO. 1100**

Offered January 10, 2014

A *BILL to amend and reenact § 33.1-12 of the Code of Virginia, relating to the Six-Year Improvement Program of the Commonwealth Transportation Board.*

Patrons—Yancey and LaRock

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That § 33.1-12 of the Code of Virginia is amended and reenacted as follows:****§ 33.1-12. General powers and duties of Board, etc.; definitions.**

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems, except that such routes shall not include roads located within any local system of roads, within the urban system of highways, or those local roads in any county that has resumed full responsibility for all of the secondary system of highways within such county's boundaries pursuant to § 33.1-84.1. Such routes shall include corridors of statewide significance pursuant to § 33.1-23.03.

(2) Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.

(a) To let all contracts to be administered by the Virginia Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways shall have authority to let all Virginia Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrence of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value, and without prior concurrence of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of the Code of Virginia providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

(c) The Commonwealth Transportation Board may award contracts for the provision of equipment,

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59 materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any  
60 such contract may provide that the price to be paid for the provision of equipment, materials, and  
61 supplies to be furnished in connection with the projects shall not be increased but shall remain fixed  
62 until completion of the projects specified in the contracts. Material components of any such contract for  
63 annual and multi-year programs, including but not limited to maintenance, may be fixed at the outset of  
64 the projects and until completion based on best achievable prices.

65 (3) Traffic regulations. To make rules and regulations, from time to time, not in conflict with the  
66 laws of the Commonwealth, for the protection of and covering traffic on and the use of systems of state  
67 highways and to add to, amend or repeal the same.

68 (4) Naming highways, bridges, interchanges, and other transportation facilities. To give suitable  
69 names to state highways, bridges, interchanges, and other transportation facilities, and change the names  
70 of any highways, bridges, interchanges, or other transportation facilities forming a part of the systems of  
71 state highways. The name of private entities, as defined in § 56-557, located within the Commonwealth  
72 shall not be used for such purposes unless such private entity pays to the Department of Transportation  
73 an annual naming rights fee as determined by the Board. The Department of Transportation shall place  
74 and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other  
75 transportation facilities named by the Board or by the General Assembly. The costs of producing,  
76 placing, and maintaining these signs shall be paid by the counties, cities, and towns in which they are  
77 located or by the private entity whose name is attached to the highway, bridge, interchange, or other  
78 transportation facility. No name shall be given to any state highway, bridge, interchange, or other  
79 transportation facility by the Commonwealth Transportation Board unless and until the Commonwealth  
80 Transportation Board shall have received from the local governing body of the locality within which a  
81 portion of the facility to be named is located a resolution of that governing body requesting such  
82 naming, except in such cases where a private entity has requested such naming. No highway, bridge,  
83 interchange, or other transportation facility previously named by the Board or the General Assembly  
84 shall be eligible for renaming by a private entity, unless such naming incorporates the previous name.  
85 The Board shall develop and approve guidelines governing the naming of highways, bridges,  
86 interchanges, and other transportation facilities by private entities and the applicable fees for such  
87 naming rights. Such fees shall be deposited in the Highway Maintenance and Operating Fund.

88 No name shall be eligible for the naming rights under this subdivision if it in any way reasonably  
89 connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or graphic; (iii) is  
90 excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is descriptive of illegal  
91 activities or substances; (vi) condones or encourages violence; or (vii) is socially, racially, or ethnically  
92 offensive or disparaging.

93 (5) Compliance with federal acts. To comply fully with the provisions of the present or future federal  
94 aid acts. The Board may enter into all contracts or agreements with the United States government and  
95 may do all other things necessary to carry out fully the cooperation contemplated and provided for by  
96 present or future acts of Congress in the area of transportation.

97 (6) Policies and operation of Departments. To review and approve policies and transportation  
98 objectives of the Department of Transportation and the Department of Rail and Public Transportation, to  
99 assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon  
100 to the Commissioner of Highways and the Director of the Department of Rail and Public Transportation.

101 (7) Transportation.

102 (a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public  
103 Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) in order to ensure the efficient and  
104 economical development of public transportation, the enhancement of rail transportation, and the  
105 coordination of such rail and public transportation plans with highway programs.

106 (b) To coordinate the planning for financing of transportation needs, including needs for highways,  
107 railways, seaports, airports, and public transportation and to set aside funds as provided in  
108 § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall  
109 adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year.  
110 This program (i) shall be based on the most recent official Transportation Trust Fund revenue forecast  
111 and, (ii) shall be consistent with a debt management policy adopted by the Board in consultation with  
112 the Debt Capacity Advisory Committee and the Department of the Treasury, and (iii) shall give priority  
113 to either projects that are expected to provide the greatest congestion reduction relative to the cost of  
114 the project or projects that promote economic development and promote commerce and trade within the  
115 highway construction district where they are located.

116 (c) To enter into contracts with local districts, commissions, agencies, or other entities created for  
117 transportation purposes.

118 (d) To promote increasing private investment in Virginia's transportation infrastructure, including but  
119 not limited to acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

120 (e) To integrate land use with transportation planning and programming, consistent with the efficient

and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.1-223.2:25 is not consistent with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to § 33.1-23.03, the Six-Year Improvement Program adopted pursuant to subdivision (7)(b), and the location of routes to be followed by roads comprising systems of state highways pursuant to subdivision (1), the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.1-23.3, 33.1-23.5:1, 33.1-41.1, or 33.1-44, based on a determination of inconsistency with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subdivision B 3 of § 33.1-23.1, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department of Transportation does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department of Transportation has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for all funds expended on the project. If, after design approval by the Chief Engineer of the Department of Transportation, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department of Transportation for the additional project costs above the original estimates for making such alterations.

(8) Contracts with other states. To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(9) Use of funds. To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. However, this requirement shall not apply to debt service apportionments pursuant to § 33.1-23.3 or 33.1-23.4.

(10) Financial and investment advisors. With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

(11) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.

(12) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

(13) Establishment of highway user fees for the systems of state highways. When the traffic-carrying capacity of any system of state highways or a portion thereof is increased by construction or improvement, the Commonwealth Transportation Board may enter into agreements with localities, authorities, and transportation districts to establish highway user fees for such system of state highways or portion thereof that the localities, authorities, and transportation districts maintain.

The term "public transportation" or "mass transit" as used in this title means passenger transportation by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing service; vehicular ferry service that serves as a link in the highway network; or human service agency or other client-restricted transportation.