

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 349

*An Act to amend and reenact § 33.2-214 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532, relating to the Robert O. Norris Bridge and Statewide Special Structure Fund.*

[H 2784]

Approved March 12, 2019

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

**1. That § 33.2-214 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532 as follows:**

**§ 33.2-214. Transportation; Six-Year Improvement Program.**

A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and set aside funds as provided in § 33.2-1524. To allocate funds for these needs pursuant to §§ 33.2-358 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

D. The Board shall have the power and duty to promote increasing private investment in the Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

E. The Board shall only include a project or program wholly or partially funded with funds from the State of Good Repair Program pursuant to § 33.2-369, the High Priority Projects Program pursuant to § 33.2-370, or the Highway Construction District Grant Programs pursuant to § 33.2-371 in the Six-Year Improvement Program if the allocation of funds from those programs and other funding committed to such project or program within the six-year horizon of the Six-Year Improvement Program is sufficient to complete the project or program. *The provisions of this subsection shall not apply to any project (i) the design and construction of which cannot be completed within six years, (ii) the estimated costs of which exceed \$2 billion, and (iii) that requires the Board to exercise its authority to waive the funding cap pursuant to subsection B of § 33.2-369.*

F. The Board shall have the power and duty 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 § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208, 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 § 33.2-319 or 33.2-366, based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subsection C or D of § 33.2-358, 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 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 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 has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to

reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, 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 for the additional project costs above the original estimates for making such alterations.

**§ 33.2-1532. Robert O. Norris Bridge and Statewide Special Structure Fund.**

*There is hereby created in the state treasury a special nonreverting fund to be known as the Robert O. Norris Bridge and Statewide Special Structure Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. The amount allocated to the Fund pursuant to §§ 33.2-358, 33.2-369, and 33.2-1530 and any funds as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding maintenance and replacement of large and unique structures. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Transportation. No later than November 30 each year, the Commissioner of Highways shall submit a report to the Governor and General Assembly on the use of moneys in the Fund.*

**2. That the Commonwealth Transportation Board (the Board) shall undertake a comprehensive review of the current and future condition of pavements and bridges in the Commonwealth. This review shall at a minimum (i) consider current conditions and performance targets of pavements and bridges, (ii) consider current investment strategies of the Highway Maintenance and Operating Fund as well as the State of Good Repair Program, (iii) recommend new performance targets for pavements and bridges with sustainable performance over a 20-year period, and (iv) develop an investment strategy for the Highway Maintenance and Operating Fund and the State of Good Repair Program to achieve those sustainable performance targets, including a plan to address the funding needs of large and unique bridges and tunnel structures in the Commonwealth. The Board shall report no later than December 1, 2019, to the Chairmen of the House and Senate Committees on Transportation, the Joint Commission on Transportation Accountability, the House Committee on Appropriations, and the Senate Committee on Finance.**

**3. That the Commonwealth Transportation Board (the Board) shall, after July 1, 2020, and based on the review conducted by the Board pursuant to the second enactment of this act, dedicate a portion of funding from the Highway Maintenance and Operating Fund and the State of Good Repair Fund to the Robert O. Norris Bridge and Statewide Special Structure Fund, as created by this act.**

**4. That the Commonwealth Transportation Board shall evaluate the feasibility of using the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq. of the Code of Virginia) to design, build, operate, and maintain two bridges to replace the existing Robert O. Norris Bridge on State Route 3 over the Rappahannock River between Lancaster and Middlesex Counties and the existing Downing Bridge on U.S. Route 360 over the Rappahannock River between the Town of Warsaw in Richmond County and the Town of Tappahannock in Essex County.**