

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 149

*An Act to amend and reenact § 33.1-41.1 of the Code of Virginia, relating to payments to cities and certain towns for maintenance of certain highways.*

[H 1252]

Approved March 8, 1996

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

**1. That § 33.1-41.1 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-41.1. Payments to cities and certain towns for maintenance of certain highways.

The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth Transportation Board, shall make payments for maintenance, *construction or reconstruction* of highways, as hereinafter provided, to: (i) all incorporated towns having more than 3,500 inhabitants according to the last preceding United States census; (ii) all incorporated towns which, according to evidence satisfactory to the Commonwealth Transportation Board, have attained a population of more than 3,500 since the last preceding United States census; (iii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect; (iv) all cities operating under charters designating them as cities, regardless of their populations; and (v) the Town of Wise, the Town of Lebanon, and the Town of Blackstone. Such payments, however, shall only be made if, ~~in the opinion of the Commonwealth Transportation Board, such those~~ *highways functionally classified as principal and minor arterial roads* are maintained ~~in accordance with the applicable standards of the Commonwealth Transportation Board to a standard satisfactory to the Department of Transportation.~~

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least fifty feet wide and (ii) a hard-surface width of at least thirty feet; or (b) has (i) an unrestricted right-of-way at least eighty feet wide and (ii) has a hard-surface width of at least twenty-four feet and (iii) ~~there are~~ approved engineering plans for the ultimate construction of an additional hard-surface width of at least twenty-four feet within the same right-of-way; or (c) (i) is ~~(+)~~ a cul-de-sac ~~and~~, (ii) has an unrestricted right-of-way at least forty feet wide and (iii) ~~has~~ a turnaround that meets applicable standards ~~of the Commonwealth Transportation Board set by the Department of Transportation~~; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation; or (ii) has constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of sixteen feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than thirty feet and a hard-surface width of not less than sixteen feet.

However, the Commissioner may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the local governing body and is to protect the quality of the affected local government's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner may prescribe.

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (i) principal and minor arterial roads; and (ii) collector roads and local streets. Payments to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of highways in that locality. For the fiscal year 1986, payment to each city and town shall be an amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile for collector roads and local streets.

The Department of Transportation shall establish a statewide maintenance index of the unit costs for labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in that index to calculate and put into effect annual changes in the base per-lane-mile rate payable under this section.

The fund allocated by the Board shall be paid in equal sums in each quarter of the fiscal year, and no payment shall be made without the approval of the Board.

The city or town receiving this fund ~~will be required to~~ *shall* make ~~quarterly annual~~ *quarterly annual* reports, ~~audited annually~~, in such form as the Board may prescribe, accounting for all expenditures and certifying that

none of the money received has been expended for other than maintenance, *construction or reconstruction* of the streets. *Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.*

**2. That an emergency exists and this act is in force from its passage.**