

*Wednesday, September 18, 2013 - 10 a.m.  
General Assembly Building, 6th Floor  
Speaker's Conference Room  
Richmond, Virginia 23219*

1 **MEMBERS PRESENT:** John S. Edwards; Gregory D. Habeeb; James M. LeMunyon; Charles  
2 S. Sharp; E.M. Miller, Jr. (by phone); Robert L. Tavenner; Ryan T. McDougle; Christopher R.  
3 Nolen; Wesley G. Russell, Jr.; Thomas M. Moncure, Jr.; Jeffrey S. Palmore

4 **MEMBERS ABSENT:** Robert L. Calhoun

5 **OTHERS PRESENT:** Joanne Maxwell, Dusty Holcomb, Phil Abraham, Edward Mullen

6 **STAFF PRESENT:** Jane Chaffin, Karen Perrine, Lilli Hausenfluck, Andrew Kubincanek,  
7 Nicole Brenner, Alan Wambold, Marty Farber

8 **Call to order:** Senator Edwards called the meeting to order at 10:05 a.m.

9 **Approval of minutes:** Hearing no objection, Senator Edwards stated that the minutes of the  
10 August 7, 2013, meeting of the Virginia Code Commission stand approved as printed and  
11 distributed to the members of the Code Commission.

12 **Title 3.2 technical correction:** Marty Farber presented draft legislation to correct an error in the  
13 Title 3.2 recodification legislation (Chapter 860 of the 2008 Acts of Assembly). Mr. Farber  
14 explained that the proposed bill reinserts language in § 3.2-301 that was inadvertently omitted  
15 during the recodification process. The omitted language was originally enacted at the 2007  
16 Session of the General Assembly (Chapter 444). The 2007 legislation added cities and towns to  
17 certain provisions of the Right to Farm Act that had previously only applied to counties. The  
18 proposed correcting legislation reinstates cities and towns and conforms to current drafting  
19 policy by changing "county" to "locality."

20 Mr. Farber requested that the bill go forward as a recommendation of the Code Commission.

21 Judge Sharp moved that the Code Commission approve the draft bill presented by Mr. Farber as  
22 a recommendation of the Code Commission. Upon a second by Mr. Russell, the Code  
23 Commission unanimously approved the motion. Senator Edwards agreed to carry the bill.

24 **Recodification and drafting policies:** Jane Chaffin explained that, at the request of Mr. Miller,  
25 the list of policies of the Code Commission for drafting and title recodification is presented for  
26 review and comment. The policies do not include style matters as those are addressed in the DLS  
27 drafting manual. Ms. Chaffin briefly reviewed each policy.

28 Ms. Chaffin indicated that the "Not Set Out" policy may need to be revisited in light of the fact  
29 that the Code of Virginia is online. The Code Commission discussed the need to add the history  
30 of the section to direct the reader to the Acts of Assembly and to discourage drafters and  
31 legislators from including provisions that will be omitted in the statutes (e.g., policy statements,  
32 purpose of the legislation, legislative intent, or provisions that do not have general or permanent  
33 application). After discussion, the Code Commission decided to make no change to the "Not Set  
34 Out" policy at this time.

35 Upon motion of Mr. Nolen, seconded by Mr. Palmore, the Code Commission adopted the "Code  
36 Commission Policies for Drafting and Title Recodification" as presented in the handout.

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37 **Recodification of Title 33.1: Highways, Bridges and Ferries:** Nicole Brenner reviewed the  
38 organization plan and the proposed schedule and noted that, after completing today's agenda, the  
39 remaining chapters will be presented at the Code Commission's October meeting and the final  
40 report and executive summary will be presented at the November meeting.

41 Ms. Brenner and Mr. Wambold presented the following chapters, some of which the Code  
42 Commission had previously reviewed:

- 43 • Definitions; General Provisions (Subtitle I)
- 44 • Transportation Entities (Subtitle I)
- 45 • Transportation Funding (Subtitle III)

46 The Code Commission discussed or took action on the following:

47 Transportation Entities

48 • § 33.1-7 (line 108) - During the prior review of this section last year, the Code Commission  
49 asked that this section be brought back. Ms. Brenner noted that changes during the 2013  
50 Session of the General Assembly have obviated the need for further review by the Code  
51 Commission. The Code Commission concurred.

52 • Article 2 (beginning on line 148; was numbered Article 3 in September 2012 draft) -  
53 Commonwealth Transportation Board; Powers and Duties - At the request of the Code  
54 Commission during its prior review of this article in September 2012, staff reviewed each  
55 section regarding the use of "may" versus "shall" as it applied to each power or duty of the  
56 Commonwealth Transportation Board. Ms. Brenner advised that, in each instance, staff had  
57 restored the original language of § 33.1-12 so that the text now reads "The Board shall have  
58 the power and duty to..." The Code Commission agreed with this language.

59 • § 33.1-223.2:15 (lines 526-531) - Ms. Brenner noted in the draft discussed in September  
60 2012, staff recommended amending this section with the understanding that changes in  
61 federal law (MAP-21, Public Law 112-141) may require further amendments to this section.  
62 Staff now recommends that this section be repealed instead of amended because the projects  
63 contemplated in this section no longer qualify as federal transportation enhancements. The  
64 Code Commission concurred.

65 • § 33.1-223.1 (line 645) - Staff stated that the reference to § 15.2-4502 relating to the  
66 definition of "transit system" is deleted because § 15.2-4502 does not define a transit system.  
67 Also, the remainder of § 33.1-223.1 clearly indicates which transit system is referenced. The  
68 Code Commission had no objection to the amendments.

69 • § 33.1-3 (lines 721, 724, and 727) - Commissioner of Highways - Ms. Brenner noted the  
70 proposed amendments differ from the prior draft of this section by removing language  
71 regarding the residency of the commissioner and the type of appointment, which are now  
72 unnecessary. Also, language regarding compensation is removed because the salary of the  
73 Commissioner of Highways is addressed in the appropriation act. The Code Commission had  
74 no objection to the amendments.

75 • § 33.1-183.1 (lines 802-804) - The reference to "the fund for highway maintenance and  
76 construction" was changed to "the Transportation Trust Fund or the Highway Maintenance  
77 and Operating Fund." Mr. Palmore asked who determines to which fund the compensation

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78 will be credited and whether this section should state how it is done. Ms. Maxwell of VDOT  
79 advised that the funds are generally for construction, so the reference to the Highway  
80 Maintenance and Operating Fund can be removed. The Code Commission agreed to this  
81 amendment.

- 82 • § 33.1-196 (lines 1751-1762) - At the request of the Code Commission during its prior  
83 review of this section, staff determined that this section is still necessary. However, the  
84 "oiling" of highways for dust control has been replaced with a different treatment method.  
85 Therefore, staff has updated the language. The Code Commission concurred with the  
86 amendments.

### 87 Transportation Funding

- 88 • § 33.1-23.14 - (lines 619-622) - The Code Commission requested that an explanation of the  
89 acronym "GARVEE" be included in the definition.

- 90 • § 33.1-23.26 - (line 757) - In follow-up to a point made by Mr. Miller at a prior meeting,  
91 staff noted that the reference to localities has been removed in this section.

92 **Other business:** Jane Chaffin provided information regarding the November 2013  
93 Administrative Law Conference, which is cosponsored by the Code Commission, and asked for  
94 any member who wishes to attend to complete and return the registration form to her as soon as  
95 possible. Ms. Chaffin also reminded the Code Commission that the next meeting is Wednesday,  
96 October 23, 2013, at 10 a.m.

97 Mr. Moncure noted that Volume 1 of the Code of Virginia, which includes the Foreword, will be  
98 replaced in 2014 and suggested that the Foreword include a statement that the Code of Virginia  
99 will be completely revised in 2019. After a brief discussion of the prior attempt to completely  
100 revise the code in 2007 and issues relating to a complete revision, Senator Edwards directed that  
101 this item be placed on the November 2013 meeting agenda for general discussion.

102 Mr. Palmore announced that he has accepted a position with the law firm of Reed Smith, and  
103 therefore, this meeting is his last one with the Code Commission. The Chair thanked Mr.  
104 Palmore for his contribution to and service on the Code Commission.

105 **Public comment; adjournment:** The Chair opened the floor for public comment. As there was  
106 no public comment and no further business to discuss, the meeting adjourned at 11:22 a.m.

**Report to the Virginia Code Commission  
 Obsolete Provisions Project  
 2013**

<b>Code Section</b>	<b>Recommendation</b>	<b>Page Number</b>
§ 23-8	No objection to repeal from DLS and SCHEV.	1
§ 56-96	Repeal the phrase “except as provided in subsection (5) of § 8.9-302”	4
§ 56-46.3	Repeal the references to the Public Utility Holding Company Act of 1935 and update the references to the Public Utility Holding Company Act of 2005 (set out at §§ 1261 et seq. of the Energy Policy Act of 2005)	6
§ 56-122	Repeal “and shall comply with the provisions of §§ 56-266 to 56-269”	7

**Code Section**

**§ 23-8. Year-round basis of instruction.**

Chapter 86 of the Acts of 1920, approved February 25, 1920, and codified as § 1003a of Michie Code 1942, relating to the year-round basis of instruction at certain state educational institutions, is continued in effect.

CHAP. 86.—An ACT to provide that the University of Virginia, the College of William and Mary, the Virginia Agricultural and Mechanical College and Polytechnic Institute, the Virginia Normal and Industrial Institute, and the several State normal schools for women shall be placed on the year-round basis of instruction as soon as their financial resources will warrant.

[H B 60]

Approved February 25, 1920.

Whereas, it is desirable to make it possible for young men and women to secure the training offered in institutions of higher learning in a briefer time and thus permit them at an earlier age to assume the responsibilities of citizenship; and,

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ACTS OF ASSEMBLY.

[VA.

Whereas, it is especially necessary to furnish added facilities for the preparation of teachers in the public school system, the training of teachers in the profession being a most important factor in teacher-training; therefore,

1. Be it enacted by the general assembly of Virginia, That the University of Virginia, the College of William and Mary, the Virginia Agricultural and Mechanical College and Polytechnic Institute, the Virginia Normal and Industrial Institute, and the several State normal schools for women, be placed on the year-round basis of instruction as soon as their financial resources will warrant, and that the summer term be organized on the basis of a quarter of the year's work of equal grade and degree credit with the work of any other quarter.

**Recommendation:**

Repeal

**Rationale:**

The Virginia Division of Legislative Services and the State Council of Higher Education for Virginia have no objection to the repeal.

**Background:**

At the beginning of the 20th century, few Virginians had the opportunity to receive a high school education. The following years saw an increased interest in providing education and several state mandates allowed for more widespread access to education. The Virginia Constitution of 1902 provided that “The General Assembly shall establish and maintain an efficient system of public free schools throughout the State.” Chapter 211 of the 1906 Acts of Assembly authorized funds for high school programs. With the expansion of high school education, the standards for teacher certification eventually changed from requiring prospective teachers to have completed the eighth grade to having to complete two years of college.

After World War I, Virginia and the nation faced a critical teacher shortage. Chapter 86 of the 1920 Acts of Assembly sought to address the issue in Virginia by mandating that the University of Virginia, the College of William and Mary, the Virginia Agricultural and Mechanical College and Polytechnic Institute (Virginia Tech), the Virginia Normal and Industrial Institute (Virginia State University), and the state normal schools for women provide instruction on a year-round basis as soon as it became financially possible so that students could more quickly enter the workforce.

**§ 55-96. Contracts, etc., void as to creditors and purchasers until recorded; priority of credit line deed of trust.**

A. 1. Every (i) such contract in writing, (ii) deed conveying any such estate or term, (iii) deed of gift, or deed of trust, or mortgage conveying real estate or goods and chattels and (iv) such bill of sale, or contract for the sale of goods and chattels, when the possession is allowed to remain with the grantor, shall be void as to all purchasers for valuable consideration without notice not parties thereto and lien creditors, until and except from the time it is duly admitted to record in the county or city wherein the property embraced in such contract, deed or bill of sale may be. The fact that any such instrument is in the form of or contains the terms of a quit-claim or release shall not prevent the grantee therein from being a purchaser for valuable consideration without notice, nor be of itself notice to such grantee of any unrecorded conveyance of or encumbrance upon such real estate goods and chattels. The mere possession of real estate shall not, of itself, be notice to purchasers thereof for value of any interest or estate therein of the person in possession. As to goods whose possession is retained by a merchant-seller the provisions of subsection (2) of § 8.2-402 of the Uniform Commercial Code shall be controlling. This section shall not apply to any security interest in goods under the Uniform Commercial Code ~~except as provided in subsection (5) of § 8.9-302~~. Any bill of sale or contract for the sale of goods or chattels when possession is allowed to remain with the grantor shall be deemed to be duly recorded when it is filed in the same manner as Uniform Commercial Code financing statements are filed under the criteria and in the places established by § 8.9A-501 as if the grantor were a debtor and the grantee a secured party. A recordation under the provisions of this section shall, when any real estate subject to the lien of any such contract has been annexed to or merged with an adjoining city subsequent to such docketing, be deemed to have been recorded in the proper clerk's office of such city.

2. The clerk of each court in which any such instrument is by law required to be recorded shall keep a daily index of all such instruments admitted to record in his office, and, immediately upon admission of any such instrument to record, the clerk shall index the same either in the daily index or the appropriate general index of his office. All instruments indexed in the daily index shall be indexed by the clerk in the appropriate general index within 90 days after admission to record. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

3. a. In any circuit court in which any such instrument required to be recorded is not recorded on the same day as delivered, the clerk shall install a time stamp machine. The time stamp machine shall affix the current date and time of each delivery of any instrument delivered to the clerk for recording that is not immediately recorded and entered into the general or daily index.

b. In the event there is no time stamp machine, or it is not functioning, the clerk shall designate an employee to affix the current date and time of each delivery of any instrument delivered to the clerk for recording.

c. In any circuit court in which instruments required to be recorded are not recorded on the same day as delivered, for purposes of subdivision 1 of this subsection, the term "from the time it is duly admitted to record" shall be presumed to be the date and time affixed upon the instrument by the time stamp machine or affixed by the clerk in accordance with subdivision 3 b of this subsection unless the clerk determines that the applicable requirements for recordation of the instrument have not been satisfied.

d. The provisions of subdivision 3 shall not apply to certificates of satisfaction or partial satisfaction or assignments of deeds of trust delivered to the clerk's office other than by hand.

B. A credit line deed of trust, recorded pursuant to § 55-58.2, shall have validity and priority over any (i) contract in writing, deed, conveyance or other instrument conveying any such estate or term subsequently recorded or (ii) judgment subsequently docketed as to all advances made under such credit line deed of trust from the date of recordation of such credit line deed of trust, regardless of whether or not the particular advance or extension of credit has been made or unconditionally committed at the time of delivery or recordation of such contract in writing, deed or other instrument or the docketing of such judgment. Any judgment creditor shall have the right to give the notice contemplated by § 55-58.2 and from the day following receipt of such notice, the judgment as docketed shall have priority over all subsequent advances made pursuant to the credit line deed of trust except those which have been unconditionally and irrevocably committed prior to such date. Mechanics' liens created under Title 43 shall continue to enjoy the same priority as created by that title. Purchase money security interests in goods and fixtures shall have the same priority as provided in § 8.9A-317 et seq.

**Recommendation:**

Repeal the phrase “except as provided in subsection (5) of § 8.9-302”. (This would be one bill)

**Rationale:** § 8.9-302 of the Code of Virginia was repealed in 2001. The Division of Legislative Services and the State Corporation Commission have no objections to the change.

**§ 56-46.3. Foreign utility companies; penalties.**

A. The provisions of ~~§ 33(a)(2) of the Public Utility Holding Company Act of 1935 (PUHCA), as amended, 15 U.S.C. § 79, et seq., the Public Utility Holding Company Act of 2005 (PUHCA), which is set out at §§ 1261 et seq. of the Energy Policy Act of 2005,~~ stipulate that certain exemptions afforded a foreign utility company (FUCO) under ~~§ 33(a)(1) of~~ PUHCA are not applicable unless every state commission having jurisdiction over the retail electric or gas rates of a public utility company that is an associate company or an affiliate of a company ~~otherwise exempted under said § 33(a)(1)~~ (other than a public utility company that is an associate company or an affiliate of a registered holding company under PUHCA) has certified to the United States Securities and Exchange Commission (SEC) that it has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority.

B. Upon application to the Commission by any person which (i) is an affiliated interest of a public service company, as such terms are defined in Chapter 4 (§ 56-76 et seq.) of this title, (ii) proposes to invest in or acquire a specific FUCO, and (iii) is not a registered holding company under PUHCA, and subject to the proviso contained herein, the Commission shall have the authority to impose upon, and require of, the applicant, the public service company, and any other "affiliated interests" of such public service company, such terms, conditions, limitations, restrictions, undertakings and commitments as the Commission deems necessary to protect the public interest from any adverse effects attributable to such proposed FUCO investment or acquisition, including such provisions for the enforcement thereof as the Commission shall deem necessary; and, upon doing so, may certify to the SEC that the Commission has the authority and resources to protect the ratepayers of such public service company subject to its jurisdiction and that it intends to exercise its authority; provided, however, that such applicant, the public service company, and such other affiliated interests of such public service company shall have furnished to the Commission, prior to delivery of said certification to the SEC, and in the manner prescribed by the Commission, a written statement accepting all such terms, conditions, limitations, restrictions, undertakings and commitments, as the Commission shall have so specified.

C. The Commission shall have the power to enforce the terms, conditions, limitations, restrictions, undertakings and commitments upon which said certification was based, including the power to penalize for and enjoin the violation or attempted violation thereof, and to issue mandatory injunctions requiring such actions as may be in the public interest to remedy any such violation or attempted violation. Any person committing any such violation or attempted violation, or failing or refusing to obey any order or injunction of the Commission issued under this section, may be fined by the Commission such sum, not exceeding \$100,000, as the Commission may deem proper, and each day's continuance of such condition shall be a separate offense.

**Recommendation:**

Repeal references to "Public Utility Holding Company Act of 1935" and replace with "Public Utility Holding Company Act of 2005, which is set out at §§ 1261 et seq. of the Energy Policy Act of 2005". (This could be combined with § 56-122 into one bill).

**Rationale:**

The Public Utility Holding Company Act of 1935 was repealed in 2005, the correct reference should be "Public Utility Holding Company Act of 2005, which is set out at §§ 1261 et seq. of the Energy Policy Act of 2005." The Division of Legislative Services and the State Corporation Commission have no objections to the change.

**§ 56-122. When railroad, steamship, etc., companies not liable as a common carrier.**

Whenever any corporation, company, or association not incorporated by or formed in this Commonwealth, or any person or partnership not a resident thereof shall obtain from a railroad, steamship, or steamboat company the right or privilege of carrying articles upon the trains, steamships, or steamboats of such railroad, steamship, or steamboat company, ~~and shall comply with the provisions of §§ 56-266 to 56-269~~ such railroad, steamship or steamboat company shall not in any manner be liable as a common carrier for any article thereafter delivered to such corporation, company, association, person, or partnership, for carriage as aforesaid.

**Recommendation:**

Repeal “and shall comply with the provisions of §§ 56-266 to 56-269”.

**Rationale:**

§§ 56-266 to 56-269 (Express Companies) of the Code of Virginia were repealed in 1996. The Division of Legislative Services and the State Corporation Commission have no objections to the change.

TITLE 33.2 ORGANIZATION OUTLINE

Proposed Title 33.2. Highways and Other Surface Transportation Systems.

**SUBTITLE I.  
GENERAL PROVISIONS AND TRANSPORTATION ENTITIES.**

<b>Chapter 1</b>		<b>Definitions and General Provisions</b>
<b>Chapter 2</b>		<b>Transportation Entities</b>
	Article 1	Commonwealth Transportation Board; Membership and Organization
	Article 2	Commonwealth Transportation Board; Powers and Duties
	Article 3	Commissioner of Highways
	Article 4	Department of Transportation
	Article 5	Department of Rail and Public Transportation

**SUBTITLE II.  
MODES OF TRANSPORTATION: HIGHWAYS, BRIDGES,  
FERRIES, RAIL, AND PUBLIC TRANSPORTATION.**

<b>Chapter 3</b>		<b>Highway Systems</b>
	Article 1	Interstate System
	Article 2	Primary State Highway System
	Article 3	Secondary State Highway System
	Article 4	The Urban Highway System
	Article 5	Allocation of Highway Funds
<b>Chapter 4</b>		<b>Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams</b>
<b>Chapter 5</b>		<b>HOV Lanes and HOT Lanes</b>
<b>Chapter 6</b>		<b>Toll Facilities and Ferries</b>
<b>Chapter 7</b>		<b>Local Authority over Highways</b>
	Article 1	General Provisions
	Article 2	Establishment, Alteration, and Discontinuance of Highways
	Article 3	Assumptions of District Highway Indebtedness
<b>Chapter 8</b>		<b>Offenses Concerning Highways</b>
<b>Chapter 9</b>		<b>Abandonment and Discontinuance of Highways and Roads</b>
	Article 1	Abandonment and Discontinuance of Highways in Primary State Highway System
	Article 2	Abandonment and Discontinuance of Highways in Secondary State Highway System
	Article 3	Abandonment of Roads Not in Primary or Secondary State Highway System
	Article 4	Abandonment of Highways for Flooding Secondary System Highways in Connection with Municipal Water Supply Projects

<b>Chapter 10</b>		<b>Eminent Domain</b>
	Article 1	Eminent Domain and Damages
	Article 2	Acquisition of Land Used as Cemeteries
<b>Chapter 11</b>		<b>Highway Construction Contracts and Suits; Highway Contractors' Association</b>
	Article 1	Highway Construction Contracts, Limitations on Suits, and Adjustment of Claims
	Article 2	Highway Contractors' Association
<b>Chapter 12</b>		<b>Outdoor Advertising in Sight of Public Highways</b>
	Article 1	General Regulations
	Article 2	False and Misleading Signs
<b>Chapter 13</b>		<b>Woodrow Wilson Bridge and Tunnel Compact</b>
<b>Chapter 14</b>		<b>Virginia-North Carolina Interstate High-Speed Rail Compact</b>

**SUBTITLE III.  
TRANSPORTATION FUNDING AND DEVELOPMENT.**

<b>Chapter 15</b>		<b>Transportation Funding</b>
	Article 1	Virginia Transportation Infrastructure Bank
	Article 2	Transportation Partnership Opportunity Fund
	Article 3	Funds for Access Roads
	Article 4	Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011
	Article 5	Transportation Trust Fund
	Article 6	Highway Maintenance and Operating Fund
<b>Chapter 16</b>		<b>Rail Funds</b>
<b>Chapter 17</b>		<b>Transportation Development and Revenue Bond Act</b>
<b>Chapter 18</b>		<b>Public-Private Transportation Act of 1995 (§ 56-556 et seq.)</b>

**SUBTITLE IV.  
LOCAL AND REGIONAL TRANSPORTATION.**

<b>Chapter 19</b>		<b>Transportation District Act of 1964 (§ 15.2-4500 et seq.)</b>
	Article 1	General Provisions
	Article 2	Creation of Districts
	Article 3	Incorporation of District; Creation, Organization, etc., of Commission
	Article 4	Powers and Functions of Commission
	Article 5	Financing
	Article 6	Powers and Duties of Localities; Liability of Commonwealth and Localities
	Article 7	Planning Process and Procedures
	Article 8	Enlargement of Transportation Districts
	Article 9	Withdrawal from Transportation Districts
	Article 10	Exemption from Taxation; Tort Liability
	Article 11	Construction of Chapter

<b>Chapter 20</b>		<b>Local Transportation Districts</b>
<b>Chapter 21</b>		<b>Transportation Districts within Certain Counties</b>
<b>Chapter 22</b>		<b>Chesapeake Bay Bridge and Tunnel District and Commission</b>
<b>Chapter 23</b>		<b>U.S. Route 58 Corridor Development Fund and Program</b>
<b>Chapter 24</b>		<b>Northern Virginia Transportation District Fund and Program</b>
<b>Chapter 25</b>		<b>Northern Virginia Transportation Authority (§ 15.2-4829 et seq.)</b>
<b>Chapter 26</b>		<b>Hampton Roads Transportation Fund</b>
<b>Chapter 27</b>		<b>Transportation District within the City of Charlottesville and the County of Albemarle</b>
<b>Chapter 28</b>		<b>Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.)</b>
<b>Chapter 29</b>		<b>Richmond Metropolitan Authority (§ 15.2-7000 et seq.)</b>
<b>Chapter 30</b>		<b>Washington Metropolitan Area Transit Regulation Compact (§ 56-529 et seq.)</b>
<b>Chapter 31</b>		<b>Washington Metropolitan Area Transit Authority (Title 56)</b>
<b>Chapter 32</b>		<b>Metropolitan Planning Organizations</b>

### Chesapeake Bay Bridge and Tunnel Commission

Created: 1954 Acts of Assembly, c. 693, as Chesapeake Bay Ferry Commission.

Amended: 1956, c. 462 (§§ 5, 6)  
1962, c. 228 (§ 7-A [added])  
1962, c. 605 (§§ 5, 6; name changed to Chesapeake Bay Bridge and Tunnel Commission)  
1964, c. 348 (§ 7-A)  
1998, c. 548 (§ 6)  
2000, cc. 238, 705 (§ 6)  
2005, cc. 270, 297 (§ 6).<sup>1</sup>

#### Additional

References: Chesapeake Bay Revenue Bond Act  
Created: 1956 Acts of Assembly, c. 714.  
Amended: 1959 Extra Session, c. 24  
1990, c. 203.

Incorporated by reference; § 33.1-253 of the Code of Virginia.

§ 1. Short Title.--This act shall be known, and may be cited, as the "Chesapeake Bay Ferry Revenue Bond Act." (1954, c. 693)

§ 2. Definitions.--As used in this act the following words and terms shall have the following meanings:

(a) The word "District" shall mean the Chesapeake Bay Ferry District, a political subdivision of the State of Virginia, hereinafter created.

(b) The word "Commission" shall mean the Chesapeake Bay Ferry Commission, hereinafter created as a governing body of the District, or if said commission shall be abolished, any board, commission or officer succeeding to the principal functions thereof, or upon whom the powers given by this act to said Commission shall be given by law.

(c) The word "project" shall mean a public ferry service over and across the waters between the city of Hampton and the county of Northampton, between the counties of Princess Anne and Northampton, in the State of Virginia, and between any points within the boundaries of said District, except as otherwise provided herein, where such ferry service would form a connecting link in the system of State highways, and shall include the carrying of vehicular traffic, trucks, passengers, freight, mail, express, and anything else legally transportable; and provision for the safety, comfort, convenience and entertainment of such passengers in such manner as may be usual and customary in the operation of similar ferry service elsewhere.

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<sup>1</sup> The 2005 amendments to § 6 expired January 1, 2006, and therefore are not incorporated into the text of this document.

(d) The word "ferry" shall be deemed to include not only the vessel or vessels and equipment necessary and convenient for providing a public ferry service, but also all property, wharves, docks, slips, rights, easements and franchises relating thereto and deemed by the Commission to be necessary or convenient for the construction or the operation thereof.

(e) The term "cost of the project" shall embrace the cost of acquisition by purchase or condemnation, construction, the cost of all lands, properties, vessels, docks, wharves, slips, approaches and highway connections, rights, easements and franchises which are deemed necessary for such construction or for the operation of the project, or the cost of acquiring all of the capital stock of the corporation or corporations owning said ferry or ferries and the amount to be paid to discharge all of the obligations of such corporation or corporations in order to vest title to the ferry in the District, the cost of any improvements ordered prior to the initial financing under the provisions of this article, provision for reasonable working capital and a reserve for interest, and shall also embrace financing charges, interest prior to and during construction and for one year after completion of construction, cost of traffic estimates and of engineering data, engineering and legal expenses, court costs and other expenses involved in or incident to any condemnation proceedings brought under authority of this act, costs of plans, specifications, surveys, estimates of cost and revenue, other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, to the acquisition or construction of the project, and to the placing of the same in operation.

(f) The word "owner" shall include all persons as defined in § 1-13.19 of the Code of Virginia having any interest or title in and to property, rights, easements or franchises authorized to be acquired by this act. (1954, c. 693)

§ 3. General Powers of Commission.--The Chesapeake Bay Ferry Commission, hereinafter created, is hereby authorized and empowered:

(a) To acquire, establish, construct, operate and maintain the project hereinafter defined;

(b) Acquisition or establishment. The commission created by authority of this act may acquire by purchase, condemnation or gift, any ferry within the boundaries of the Chesapeake Bay Ferry District which forms a connecting link in the system of State highways, and may purchase all equipment and other things necessary for the establishment of any new ferries within the boundaries of said district except as hereinafter provided to become connecting links in the State highway system whenever it shall determine such action to be advisable and expedient for the benefit of the people of this State and of this Chesapeake Bay Ferry District. (1954, c. 693)

§ 4. Bonds not to constitute a debt or pledge of taxing power.--Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the District or of the State of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the State or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the District, the State or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect. (1954, c. 693)

§ 5. Chesapeake Bay Bridge and Tunnel District.--A political subdivision of the State of Virginia to be known as the "Chesapeake Bay Bridge and Tunnel District" is hereby created.

The district shall comprise the area now included in the boundaries of Accomack, Princess Anne and Norfolk Counties, Northampton County, including the town of Cape Charles, and within the corporate limits of the cities of Virginia Beach, Hampton, Newport News, South Norfolk, the former city of Warwick, Norfolk, and Portsmouth, Virginia, and the area of Chesapeake Bay between these political subdivisions, and by the name Chesapeake Bay Bridge and Tunnel District may sue and be sued, and by and through the Chesapeake Bay Bridge and Tunnel Commission hereinafter created as the governing board thereof, the district may plead and be impleaded, and contract with, individuals, partnerships, associations, private corporations, municipal corporations, political subdivisions of the State of Virginia, and the federal government or any agency thereof having any interest or title in and to property, rights, easements or franchises authorized to be acquired by this act. (1954, c. 693; 1956, c. 462; 1962, c. 605)

§ 6. Chesapeake Bay Bridge and Tunnel Commission.--A Commission, to be known as the "Chesapeake Bay Bridge and Tunnel Commission," is hereby created as the governing board of the Chesapeake Bay Bridge and Tunnel District created by this act. The Commission shall consist of the following eleven members: (i) one member of the Commonwealth Transportation Board, (ii) two members from Accomack County, (iii) two members from Northampton County, (iv) one member from the City of Portsmouth, (v) one member from the City of Chesapeake, (vi) one member from the City of Hampton, (vii) one member from the City of Newport News, (viii) one member from the City of Norfolk, and (ix) one member from the City of Virginia Beach. The members of said Commission appointed under the provisions of this section shall be residents of the counties or cities from which they are appointed.

Any member of the Commission appointed or reappointed on or after July 1, 1998, shall be appointed by the Governor, subject to confirmation by each house of the General Assembly. Commission members shall be appointed to four-year terms. Any member of the Commission shall be eligible for reappointment to a second four-year term, but, except for appointments to fill vacancies for portions of unexpired terms, shall be ineligible for appointment to any additional term. When a vacancy in the membership occurs, the Governor shall appoint a new member to complete the unexpired portion of the term, subject to confirmation by each house of the General Assembly.

The Commission shall select a chairman annually from its membership. Within thirty days after the appointment of the original members of the Commission, the Commission shall meet on the call of any member and elect one of its members as chairman and another as vice-chairman. The Commission shall employ a secretary and treasurer (who may or may not be a member of the Commission) and if not a member of the Commission, fix his compensation and duties. Any member of the Commission may be removed from office for cause by the Governor. Each member of the Commission, immediately following his appointment, shall take an oath of office, prescribed by Article II, Section 7 of the Constitution of Virginia, before any judge, clerk, or deputy clerk of any court of record; judge of a district court in the Commonwealth; the Secretary of the Commonwealth or his deputy; or a member of the State Corporation Commission. No member of the Commission shall receive any salary but shall be entitled to expenses and the per diem pay allowed members of the Commonwealth Transportation Board. Six members of the Commission shall constitute a quorum. The records of the Commission shall be public records. The Commission is authorized to do all things necessary or incidental to the performance of its duties and the execution of its powers under this act. The route for any bridge or tunnel or combination thereof, built by the Commission, shall be selected, subject to the

approval of the Commonwealth Transportation Board. (1954, c. 693; 1956, c. 462; 1962, c. 605; 1998, c. 548; 2000, cc. 238, 705; 2005, cc. 270, 297 [expired])

§ 7. Incidental powers of the Commission.--Without in any manner limiting or restricting the general powers granted by this act, the commission shall have power:

- (a) To make rules and regulations for the conduct of its business;
- (b) To acquire, by purchase or condemnation, in the name of the District, hold and dispose of personal property, including vessels and equipment incidental thereto, for the corporate purposes of the District;
- (c) To acquire full information to enable it to establish, construct, maintain and operate the project;
- (d) To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction and accounting experts and inspectors and attorneys and such other employees as may be deemed necessary, and within the limitations prescribed in this act, to prescribe their powers and duties and fix their compensation;
- (e) To make and enter into all contracts or agreements, as the commission may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this act;
- (f) To accept loans and grants of money or materials or property at any time from the United States of America, or the State of Virginia or any agency or instrumentality thereof;
- (g) To purchase, solely from funds provided under the authority of this act, such lands, buildings, structures, vessels, docks, wharves, slips, and any other equipment necessary or convenient to the operation thereof, rights of way, franchises, easements, and interests in lands, or the capital stock of corporations owning such assets, deemed by the commission to be necessary for the construction or operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the District. Whenever a price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, or is unable to convey valid title, or is unknown, the commission is hereby authorized and empowered to acquire any such property, by condemnation in accordance with and subject to the provisions of Article 5 of Chapter 1 of Title 33 and of § 25-233 of the Code of Virginia; and the provisions of any and all laws applicable to the condemnation of property and the power of eminent domain by the State Highway Commission, under the laws of the State of Virginia, except as altered or modified by this act shall apply, mutatis mutandis, to proceedings under this act;
- (h) To adopt an official seal and alter the same at its pleasure; and to make and from time to time amend and repeal by-laws and rules and regulations not inconsistent with law to carry into effect the powers and purposes of the commission.
- (i) To exercise any power usually possessed by private corporations performing similar functions, including the right to expend, solely from funds provided under the authority of this act, such funds as may be considered by the commission to be advisable or necessary in advertising its facilities and services to the traveling public. (1954, c. 693)

§ 7-A. Incidental powers of the Commission. Without in any manner limiting the general powers granted by this act, the Commission shall have power:

- (a) To adopt and enforce reasonable rules and regulations which after publication one time in full in a newspaper of general circulation published in or having general circulation in the city of Virginia Beach and a newspaper of general circulation published in or having general circulation in the county of Northampton and when posted where the using public may

conveniently see the same, shall have the force and effect of law as to (1) maximum and minimum speed limits applicable to motor vehicles using such project and other property under control of the Commission, (2) the types, kinds and sizes of the vehicles which may use such project, (3) the nature, size, type or kind of materials or substances which shall not be transported through or over such project, and (4) such other rules and regulations as may be necessary or expedient in the interest of public safety with respect to the use of such project.

(b) The violation of any such rules and regulations shall be punishable as follows:

(1) If such a violation would have been a violation of law or ordinance if committed on any public road, street, highway or turnpike in the county or municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed on such public road, street, highway or turnpike.

If such violation occurs within one jurisdiction and is punishable within another jurisdiction, the court trying the case shall, if the accused is found guilty, apply that punishment that is prescribed for offenses occurring within the jurisdiction of the court trying the case.

(2) All other violations shall be punishable as a misdemeanor.

(c) To appoint and employ policemen to enforce within the area under the control of the Commission the rules and regulations adopted by the Commission and the laws of this Commonwealth. Such police shall have the powers vested in police officers under § 15-557 and § 52-8 of the Code of Virginia which sections shall apply, mutatis mutandis, to police appointed under this Act.

Such policemen appointed by the Commission may issue summons to appear, or arrest on view or on information without warrant as permitted by law, within the jurisdiction of this State, and conduct before any police or county court of any political subdivision into which the project extends, any person violating, within or upon the project or other property under the control of the Commission, any rule or regulation of the Commission or any law of this Commonwealth pertaining to the regulation and control of highway traffic on any bridge or tunnel owned or operated by the Commission including all entrance or exit plazas and approaches adjacent or appurtenant thereto, and also including, but not limited to, any rule or regulation regarding the payment of tolls.

(d) For the purpose of enforcing such laws, rules and regulations, the courts of the city of Virginia Beach and the county of Northampton shall be deemed to have concurrent jurisdiction of criminal offenses that constitute violations of the laws, rules and regulations of the Commission. (1962, c. 228; 1964, c. 348)

§ 8. Consent of State to use subaqueous soil of Chesapeake Bay.--The State of Virginia hereby consents to the use by the commission, in any manner whatsoever in the performance of its duties hereunder, of all lands lying under the waters of the Chesapeake Bay which are within the State and are deemed by the commission to be necessary for the construction or operation of the project. (1954, c. 693)

§ 9. Revenue Bonds.--The commission is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the District for the purpose of paying all or a part of the cost of the project as hereinabove defined. The principal and interest of such bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding five per centum per annum, payable semiannually, shall mature at such time or times, not exceeding forty years from their date or dates, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or

prices and under such terms and conditions as may be fixed by the commission prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the State. In case any officer whose signature shall appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All revenue bonds issued under the provisions of this act shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The commission may sell such bonds in such manner and for such price as it may determine to be for the best interest of the District, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than five per centum per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The proceeds of such bonds shall be disbursed for the purposes for which such bonds shall have been issued upon requisition of the chairman of the commission under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture hereinafter mentioned may provide.

If the bonds of a particular issue, by error of estimates, or otherwise, shall be less than the cost of the project, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be paid into the funds hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The commission may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things which are specified and required by this act.

The commission is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the District for the purpose of refunding any bonds issued under the provisions of this act and then outstanding. The issuance of such refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the commission with respect to same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable.

Prior to the issuance by the commission of the revenue bonds of the District under the provisions of this act, each member of the commission shall give bond payable to the

Commonwealth of Virginia, in form approved by the Attorney General, in such penalty as shall be fixed by the Governor, with some surety or guaranty company duly authorized to do business in Virginia and approved by the Governor, as security, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be considered as part of the cost of the project. (1954, c. 693)

§ 10. Trust Indenture.--In the discretion of the commission each and any issue of such revenue bonds may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust indenture may pledge or assign tolls and revenues, to be received, but shall not convey or mortgage the project or any part thereof. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions specifying, defining, protecting, and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the project, and the custody, safeguarding, and application of all moneys, and may also provide that the project shall be constructed and paid for under the supervision and approval of consulting engineers employed or designated by the commission and satisfactory to the original purchasers of the bonds issued therefor, and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues or other moneys be satisfactory to the purchasers. It shall be lawful for any bank or trust company incorporated under the laws of this State to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust indenture may contain such other provisions as the commission may deem reasonable and proper for the security of bondholders. All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of maintenance, operation, and repairs of the project. (1954, c. 693)

§ 11. Tolls and Revenues.--The commission is hereby authorized to fix and to revise from time to time tolls or fees for the use of the project or any part thereof and to charge and collect the same, and to contract with any person, partnership, association, or corporation desiring the use of any ferry included in the project, its approaches and appurtenances, or any part thereof, for placing therein or thereon water, gas, or oil pipe lines, telephone, telegraph, electric light, or power lines, or for any other purpose, and to fix the terms, conditions, and rates of charge for such use.

The tolls for the use of the project shall be so fixed and adjusted as to provide a fund sufficient, with other revenues of such project, to pay (a) the cost of maintaining, repairing and operating the project unless such cost shall be otherwise provided for and (b) the bonds, and the interest thereon as the same shall become due. All tolls and all other revenue derived from the project, except such part thereof as may be required to pay the cost of maintaining, repairing and operating the project, and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of the bonds or in the trust indenture, or such parts thereof as may be required by such resolution or trust indenture, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund which is hereby pledged to and charged with the payment of (1) the interest upon such bonds as such interest

shall fall due, (2) the principal of the bonds as the same fall due, (3) the necessary fiscal agency charges for paying principal and interest, and (4) any premium upon bonds retired by call or purchase as herein provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of bonds, or in the trust indenture but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another. The moneys in such sinking fund, in accordance with the provisions of the resolution authorizing the issuance of the bonds or of the trust indenture, shall be applied to the payment of the interest on and the principal of the bonds and the purchase or redemption of bonds. All bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued. (1954, c. 693)

§ 12. Cessation of Tolls.--When the bonds issued for the project and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the commission shall cease to charge tolls for the use of the project and thereafter the project shall be free; provided, however, that the commission shall thereafter charge tolls for the use of the project in the event that tolls are required for maintaining, repairing and operating the project due to the lack of funds from other sources than tolls. (1954, c. 693)

§ 13. Trust Funds.--All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds, as grants or other contributions, or as revenues and earnings, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The commission shall, in the resolution providing for the issuance of revenue bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds and the earnings and revenues to be received to any officer who, or any agency, bank or trust company which shall act as trustee of such funds and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution and trust indenture may provide. (1954, c. 693)

§ 14. Remedies.--Any holder of bonds issued under the provisions in this act or any of the coupons appertaining thereto, and the trustee thereunder the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State of Virginia or granted hereunder and under such resolution or trust indenture, and may enforce and compel performance of all duties required by this act or by such resolution or trust indenture to be performed by the commission or any officer thereof, including the fixing, charging and collecting of tolls and other charges for the use of the project. (1954, c. 693)

§ 15. Governmental Function.--It is hereby found, determined and declared that the creation of the District and the carrying out of its corporate purposes is in all respects for the benefit of the people of this State and is a public purpose and that the District and the commission will be performing an essential governmental function in the exercise of the powers conferred by this act, and the State covenants with the holders of the bonds issued under the provisions of this act that the District shall not be required to pay any taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of the project or upon any revenues therefrom and the project and the bonds issued in connection therewith and the income derived therefrom shall be exempt from all State, municipal and local taxation. (1954, c. 693)

§ 16. Bonds Eligible for Investment.--Bonds issued by the District under the provisions of this Article are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1954, c. 693)

§ 17. No Competitive Facility.--No franchise, rights or privileges shall be granted or authorized by the State of Virginia or by any political subdivision or court thereof for the establishment, acquisition or construction, maintenance or operation of any ferry within the boundaries of the Chesapeake Bay Ferry District, or to any competing bridge or tunnel from the Eastern Shore to Hampton, or from the Eastern Shore to Princess Anne County, and no such facility shall be constructed or established hereafter to provide means of transit within the boundaries of the Chesapeake Bay Ferry District, except by the Commission created by this act to govern said district so long as any bonds issued under this act shall remain outstanding or until provision shall first be made for the payment of the principal and interest upon all such bonds; provided, however, that such prohibition shall not apply to any ferry which may hereafter be established for the exclusive transportation of railroad cars, or of railroad passengers holding through tickets, or to projects heretofore authorized under the State Revenue Bond Act of 1940, as amended. (1954, c. 693)

§ 18. Act liberally construed.--This act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof. (1954, c. 693)

§ 19. Constitutional Construction.--The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1954, c. 693)

**Chesapeake Bay Revenue Bond Act**

Created: 1956 Acts of Assembly, c. 714.

Amended: 1959 Extra Session, c. 24 (§§ 2, 7)  
1990, c. 203 (§ 2).

Incorporated by reference; § 33.1-253 of the Code of Virginia.

§ 1. Short Title.--This act shall be known, and may be cited, as the "Chesapeake Bay Revenue Bond Act." (1956, c. 714)

§ 2. Definitions.--As used in this act the following words shall have the following meanings:

(a) "District" shall mean the political subdivision of the Commonwealth, duly created by Chapter 693, as amended, of the Acts of Virginia of 1954, known as the Chesapeake Bay Ferry District and to be known hereafter as the Chesapeake Bay Bridge and Tunnel District.

(b) "Commission" shall mean the governing body of the District, duly created by said Chapter 693, as amended, known as the Chesapeake Bay Ferry Commission and to be known hereafter as the Chesapeake Bay Bridge and Tunnel Commission, or if said Commission shall be abolished, any board, commission or officer succeeding to the principal functions thereof, or upon whom the powers given by this act to said Commission shall be given by law.

(c) "Project" shall mean a bridge or tunnel or a bridge and tunnel project, including the existing bridge and tunnel crossing operated by the Commission and all or a part of an additional and generally parallel bridge and tunnel crossing, from any point within the boundaries of the District to a point in the county of Northampton, including such approaches and approach highways as the Commission shall deem necessary to facilitate the flow of traffic in the vicinity of such project or to connect such project with the highway system or other traffic facilities in the Commonwealth, and including all overpasses, underpasses, interchanges, entrance plazas, toll houses, service stations, garages, restaurants, and administration, storage and other buildings and facilities which the Commission may deem necessary for the operation of such project, together with all property, rights, franchises, easements and interests which may be required by the Commission for the construction or the operation of such project.

(d) "Cost" as applied to the project shall embrace the cost of construction, the cost of the acquisition of all land, rights of way, property, rights, franchises, easements, and interests acquired by the Commission for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, provision for reasonable working capital, financing charges, interest prior to and during construction and, if deemed advisable by the Commission, for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing such project, administrative

expense, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation. Any obligation or expense hereafter incurred by the Commonwealth Transportation Board with the approval of the Commission for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of the project shall be regarded as a part of the cost of such project and shall be reimbursed to the Commonwealth Transportation Board out of the proceeds of revenue bonds issued for the project as hereinafter authorized.

(e) "Owner" shall include all persons as defined in § 1-13.19, as amended, of the Code of Virginia having any interest or title in and to property, rights, franchises, easements and interests authorized to be acquired by this act.

(f) "Bonds" shall mean bonds, notes, bond anticipation notes, or other obligations of the District, notwithstanding any contrary provision in this act, which may be issued in certificated or uncertificated form as current interest or capital appreciation bonds, or a hybrid thereof, and may bear interest at a rate or rates, which may be fixed, zero, or at a floating or variable rate or rates of interest established by reference to indices or formulae, that may be in excess of the rate or rates now permitted by law and payable at such times as the Commission may determine. Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal and premium, if any, and interest on the bonds. Bonds may be sold in such manner and for such price as the Commission may determine to be for the best interests of the District. (1956, c. 714; 1959 Extra Session, c. 24; 1990, c. 203)

§ 3. Bonds not to constitute a debt or pledge of taxing power.--Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the District or of the State of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the District or of the State or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and other revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the District, the State or any county, city, district or political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect. (1956, c. 714)

§ 4. Additional Powers of the Commission.--Without in any manner limiting of restricting the powers heretofore given to the Commission, the Commission is hereby authorized and empowered:

(a) To establish, construct, maintain, repair and operate the project; provided, however, that no such project shall be constructed unless adequate provision shall be made for the retirement of any revenue bonds theretofore issued by the Commission under the provisions of Chapter 693 of the Acts of Virginia of 1954;

(b) To determine the location, character, size and capacity of the project, to establish, limit and control such points of ingress to and egress from the project as may be necessary or desirable in the judgment of the Commission to insure the proper operation and maintenance of the project, and to prohibit entrance to such project from any point or points not so designated. The Commission shall coordinate their plans with those of the State Highway Commission insofar as practicable;

(c) To secure all necessary federal authorizations, permits and approvals for the construction, maintenance, repair and operation of the project;

(d) To acquire or construct enlargements or improvements to any public ferry service then being operated by the Commission;

(e) To make rules and regulations for the conduct of its business;

(f) To acquire, by purchase or condemnation, in the name of the District, hold and dispose of real and personal property for the corporate purposes of the District;

(g) To acquire full information to enable it to establish, construct, maintain, repair and operate the project;

(h) To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction and accounting experts and inspectors and attorneys and such other employees as may be deemed necessary, and within the limitations prescribed in this act, to prescribe their powers and duties and fix their compensation;

(i) To pay, from any available moneys, the cost of plans, specifications, surveys, estimates of cost and revenues, legal fees and other expenses necessary or incident to determining the feasibility or practicability of financing, constructing, maintaining, repairing and operating the project;

(j) To issue revenue bonds of the District, for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(k) To fix and revise from time to time and to charge and collect tolls and other charges for the use of the project and any public ferry service then being operated by the Commission;

(l) To combine for financing purposes the project and any public ferry service or services then being operated by the Commission;

(m) To make and enter into all contracts or agreements, as the Commission may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this act;

(n) To accept loans and grants of money or materials or property at any time from the United States of America, or the State of Virginia or any agency or instrumentality thereof;

(o) To adopt an official seal and alter the same at its pleasure; and to make and from time to time amend and repeal by-laws and rules and regulations not inconsistent with law to carry into effect the powers and purposes of the Commission;

(p) To sue and be sued, plead and be impleaded, all in the name of the District;

(q) To exercise any power usually possessed by private corporations performing similar functions, including the right to expend, solely from funds provided under the authority of this act, such funds as may be considered by the Commission to be advisable or necessary in advertising its facilities and services to the traveling public; and

(r) To do all acts and things necessary or incidental to the performance of its duties and the execution of its powers under this act. (1956, c. 714)

§ 5. Acquisition of Property.--The Commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of this act, such lands, structures, rights of way, property, rights, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State, as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the District.

All counties, cities, towns and other political subdivisions and all public agencies and commissions of the State, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the District at the Commission's request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Commission, including public roads and other real property already devoted to public use.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the Commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration of public or private property damaged or destroyed. Such proceedings shall be in accordance with and subject to the provisions of any and all laws applicable to condemnation of property in the name of the State Highway Commissioner under the laws of the State of Virginia. Title to any property acquired by the Commission shall be taken in the name of the District. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the Commission shall impose any liability upon the District except as may be paid from the funds provided under the authority of this act.

If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up possession thereof, the Commission may proceed to obtain possession in any manner now or hereafter provided by law.

With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right of way, plans and specifications of the proposed project showing compliance with the above mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty days to approve the plans and specifications so submitted, the matter shall be submitted to the Corporation Commission, as to the sufficiency and safety of such plans and specifications

and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the Corporation Commission as the case may be. A copy of the plans and specifications approved by the railroad or the Corporation Commission shall be filed as an exhibit with the petition for condemnation. The cost of any such overhead or undergrade projects and appurtenances and any expense and cost incurred in changing, adjusting, relocating or removing the lines and grades of such railroad in connection with the project shall be paid by the Commission as a part of the cost of the project. (1956, c. 714)

§ 6. Incidental Powers.--The Commission shall have power to construct grade separations at intersections of the project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Commission as a part of the cost of the project.

If the Commission shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such location as the Commission shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Commission as a part of the cost of the project.

Any public highway affected by the construction of the project may be vacated or relocated by the Commission in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Commission as a part of the cost of the project.

In addition to the foregoing powers, the Commission and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this act, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Commission shall make reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities.

The Commission shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under the project. When public utility facilities which now are, or hereafter may be, located in, on, along, over or under the project should be relocated in the project, or should be removed from the project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Commission; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Commission as a part of the cost of the project. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a

period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

The State of Virginia hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the Commission to be necessary for the construction or operation of the project. (1956, c. 714)

§ 7. Revenue Bonds.--The Commission is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the District for any one or more of the following purposes: (a) paying all or a part of the cost of all or a part of the project, (b) paying the cost of acquiring or constructing enlargements or improvements to any public ferry service then being operated by the Commission, and (c) refunding any outstanding revenue bonds of the District which shall have been issued under the provisions of this act or Chapter 693 of the Acts of Assembly of 1954, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six per centum per annum payable semiannually, shall mature at such time or times, not exceeding forty years from their date or dates, as may be determined by the Commission, and may be made redeemable before maturity, at the option of the Commission, at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All revenue bonds issued under the provisions of this act shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The Commission may sell such bonds in such manner and for such price as it may determine to be for the best interest of the District, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The proceeds of such bonds shall be disbursed for the purposes for which such bonds shall have been issued under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture hereinafter mentioned may provide. If the bonds of a particular issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to

payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be paid into the funds hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, the Commission may, under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Commission may also provide for the replacement of any bond which shall become mutilated or shall be destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things which are specified and required by this act. (1956, c. 714; 1959 Extra Session, c. 24 [*Editor's Note: 1959 Extra Session, c. 24, specified a contingent effective date in the second enactment: "This act shall become effective upon the adoption of a resolution authorizing the issuance of revenue bonds of the District as provided in § 7 hereof for the purpose of paying all or part of the cost of a bridge or tunnel or a bridge and tunnel project as defined in § 2 hereof and the filing of a copy of such resolution duly certified by the Secretary and Treasurer of the Commission with the Clerk of the House of Delegates."*])

§ 8. Trust Indenture.--In the discretion of the Commission any bonds issued under the provisions of this act may be secured by a trust indenture by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other-revenues to be received, but shall not convey or mortgage the project or any public ferry service then being operated by the Commission or any part thereof. Such trust indenture or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project and any public ferry service then being operated by the Commission in connection with which such bonds shall have been authorized, the rates of toll to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust indenture or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or resolution may be treated as a part of the cost of the operation of the project or any public ferry service then being operated by the Commission. (1956, c. 714)

§ 9. Revenues.--The Commission is hereby authorized to fix, revise, charge and collect tolls for the use of the project or any public ferry service then being operated by the Commission, and to contract with any person, partnership, association or corporation desiring the use thereof, and to fix the terms, conditions, rents and rates of charges for such use.

Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project or any public ferry service then being operated by the Commission in connection with which the bonds of any issue shall have been issued under the provisions of this act as to

provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project or public ferry service and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. The tolls and all other revenues derived from the project or the public ferry service in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1956, c. 714)

§ 10. Transfer to State.--Except as hereinafter provided in this section, when all bonds issued under the provisions of this act in connection with the project and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, the project, if then in good condition and repair, shall become a part of the state highway system and shall thereafter be maintained by the State Highway Commission free of tolls. The Commission may, in any resolution or trust indenture authorizing or securing bonds under the provisions of this act, provide for combining the project and any public ferry service or services then being operated by the Commission for financing purposes, and for the continuance of tolls on the project and such public ferry service or services until all such bonds and the interest thereon shall have been paid or a sufficient amount for such purposes shall have been set aside in trust for the benefit of the bondholders. (1956, c. 714)

§ 11. Trust Funds.--All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust indenture may provide. (1956, c. 714)

§ 12. Remedies.--Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture or the resolution authorizing the

issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of Virginia or granted hereunder or under such trust indenture or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust indenture or resolution to be performed by the Commission or by any officer thereof, including the fixing, charging and collecting of tolls. (1956, c. 714)

§ 13. Exemption from Taxation.--The exercise of the powers granted by this act will be in all respects for the benefit of the people of the State and for the increase of their commerce and prosperity, and as the operation and maintenance of the project and any public ferry service then being operated by the Commission will constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the project or any public ferry service then being operated by the Commission or any property acquired or used by the Commission under the provisions of this act or upon the income therefrom, and the bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the State. (1956, c. 714)

§ 14. Bonds Eligible for Investment.--Bonds issued by the District under the provisions of this act are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1956, c. 714)

§ 15. Protection from Competition.--No franchise, right or privilege shall be granted or authorized by the State of Virginia or by any political subdivision or court thereof for the acquisition, establishment, construction, maintenance, repair or operation of any bridge or tunnel or bridge and tunnel facility or any public ferry service from any point within the boundaries of the District to a point in the county of Northampton, except to the Commission so long as any bonds issued under this act shall remain outstanding or until provision shall first be made for the payment of the principal and the interest and the premium, if any, due and payable upon all such bonds; provided, however, that such prohibition shall not apply to any ferry which may hereafter be established for the exclusive transportation of railroad cars, or of railroad passengers holding through tickets, or to projects heretofore authorized under the State Revenue Bond Act of 1940, as amended. (1956, c. 714)

§ 16. Miscellaneous.--Any action taken by the Commission under the provisions of this act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Commission. The project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Commission may in its discretion employ.

All other police officers of the Commonwealth and of each county, city, town or other political subdivision of the Commonwealth through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they

have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

All private property damaged or destroyed by the construction of the project or any part thereof shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this act.

On or before the last day of February in each year the Commission shall make an annual report of its activities for the preceding calendar year to the Governor. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The Commission shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books and accounts of the Commission shall be subject to examination and inspection by duly authorized representatives of the Governor, the State Highway Commission, the governing bodies of the political subdivisions constituting the District and any bondholder or bondholders at any reasonable time, provided the business of the Commission is not unduly interrupted or interfered with thereby.

Any member, agent or employee of the Commission who contracts with the Commission or District or is interested, either directly or indirectly, in any contract with the Commission or District or in the sale of any property, either real or personal, to the District shall be punished by a fine of not more than One Thousand Dollars or by imprisonment for not more than one year, or both.

Any person who uses the project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than One Hundred dollars or by imprisonment for not more than thirty days, or both, and in addition thereto the Commission shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid. (1956, c. 714)

§ 17. Act Liberally Construed.--This act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof. (1956, c. 714)

§ 18. Constitutional Construction.--The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1956, c. 714)

1 ~~Article 2.~~

2 ~~Chesapeake Bay Bridge and Tunnel District.~~

3 CHAPTER 22.

4 CHESAPEAKE BAY BRIDGE AND TUNNEL DISTRICT AND COMMISSION AND  
5 REVENUE BOND ACT.

6 **Drafting note: Existing Article 2 (§ 33.1-253) of Chapter 3 of Title 33.1 is repealed**  
7 **and replaced with this proposed chapter on the Chesapeake Bay Bridge and Tunnel**  
8 **District and Commission and the Chesapeake Bay Revenue Bond Act created by**  
9 **combining Chapter 693 of the Acts of Assembly of 1954 (the 1954 Act), which created the**  
10 **Chesapeake Bay Ferry Commission later changed to the Chesapeake Bay Bridge and**  
11 **Tunnel Commission, and Chapter 714 of the Acts of Assembly of 1956 (the 1956 Act),**  
12 **which created the Chesapeake Bay Revenue Bond Act. The 1954 and 1956 Acts were**  
13 **subsequently and separately amended numerous times; this chapter is proposed to unify**  
14 **what has previously been confusing and at some points diverging and to codify it.**  
15 **References to the Chesapeake Bay Bridge and Tunnel District in § 33.1-253 are an**  
16 **incomplete listing of relevant acts of assembly and is stricken and replaced with this new**  
17 **chapter.**

18 **Sections of the 1954 Act were amended as follows: by Chapter 462 of the Acts of**  
19 **Assembly of 1956 (§§ 5 and 6), Chapter 228 of the Acts of Assembly of 1962 (§ 7-A was**  
20 **added), Chapter 605 of the Acts of Assembly of 1962 (§§ 5 and 6), Chapter 348 of the Acts**  
21 **of Assembly of 1964 (§ 7-A), Chapter 548 of the Acts of Assembly of 1998 (§ 6), Chapters**  
22 **238 and 705 of the Acts of Assembly of 2000 (§ 6), and Chapters 270 and 297 of the Acts of**  
23 **Assembly of 2005 (§ 6; these amendments expired January 1, 2006). Amendments made by**  
24 **the unexpired acts of assembly are incorporated in this proposed chapter.**

25 **Sections of the 1956 Act were amended as follows: by Chapter 24 of the Acts of**  
26 **Assembly of 1959, Extra Session, (§§ 2 and 7) and by Chapter 203 of the Acts of Assembly**

27 of 1990 (§ 2). Amendments made by those acts of assembly are incorporated in this  
28 proposed chapter.

29 ~~§ 33.1-253. Chesapeake Bay Bridge and Tunnel District.~~

30 ~~Chapter 693 of the Acts of 1954, creating the Chesapeake Bay Ferry District, and~~  
31 ~~creating the Chesapeake Bay Ferry Commission with authority to acquire and operate ferry~~  
32 ~~projects within the District, is incorporated in this Code by this reference.~~

33 ~~The following amendments to Chapter 693 of the Acts of 1954, incorporated in this~~  
34 ~~Code by this section, are also incorporated herein by this reference:~~

35 ~~Chapter 462 of the Acts of 1956.~~

36 ~~Chapter 228 of the Acts of 1962.~~

37 ~~Chapter 605 of the Acts of 1962.~~

38 ~~Chapter 348 of the Acts of 1964.~~

39 ~~Chapter 714 of the Acts of 1956, conferring additional powers on the Chesapeake Bay~~  
40 ~~Ferry Commission, is incorporated in this Code by this reference.~~

41 ~~The following amendment to Chapter 714 of the Acts of 1956, incorporated in this Code~~  
42 ~~by this section, is also incorporated herein by this reference:~~

43 ~~Chapter 24 of the Acts of 1959, Extra Session, changing the names of the Chesapeake~~  
44 ~~Bay Ferry District and the Chesapeake Bay Ferry Commission to the Chesapeake Bay Bridge~~  
45 ~~and Tunnel District and the Chesapeake Bay Bridge and Tunnel Commission.~~

46 **Drafting note: Existing § 33.1-253, which is the only section in Article 2 of Chapter**  
47 **3 of Title 33.1, is proposed for repeal.**

48 ~~§ 2 33.2-2200. Definitions.~~

49 ~~As used in this act the following words shall have the following meanings chapter,~~  
50 ~~unless the context requires a different meaning:~~

51 ~~(f) "Bonds" shall mean means bonds, notes, bond anticipation notes, or other obligations~~  
52 ~~of the District, notwithstanding any contrary provision in this act chapter, which may be issued~~  
53 ~~in certificated or uncertificated form as current interest or capital appreciation bonds, or a hybrid~~

54 thereof, and may bear interest at a rate ~~or rates~~, which may be fixed, zero, or at a floating or  
55 variable rate ~~or rates~~ of interest established by reference to indices or formulae, that may be in  
56 excess of the rate ~~or rates~~ now permitted by law and payable at such times as the Commission  
57 may determine. Bonds may be issued under a system of book entry for recording the ownership  
58 and transfer of ownership of rights to receive payments of principal and premium, if any, and  
59 interest on the bonds. Bonds may be sold in such manner and for such price as the Commission  
60 may determine to be for the best interests of the District.

61 (b) "Commission" ~~shall mean~~ means the governing body of the District, ~~duly created by~~  
62 ~~said Chapter 693, as amended, known as the Chesapeake Bay Ferry Commission and to be~~  
63 ~~known hereafter~~ as the Chesapeake Bay Bridge and Tunnel Commission, ~~or if said Commission~~  
64 ~~shall be abolished, any board, commission or officer succeeding to the principal functions~~  
65 ~~thereof, or upon whom the powers given by this act to said Commission shall be given by law.~~

66 (d) "Cost<sub>2</sub>" as applied to the project ~~shall embrace~~, means any or all of the following: the  
67 cost of construction; the cost of the acquisition of all land, ~~rights of way~~ rights-of-way,  
68 property, rights, franchises, easements, and interests acquired by the Commission for such  
69 construction; the cost of demolishing or removing any buildings or structures on land so  
70 acquired, including the cost of acquiring any lands to which such buildings or structures may be  
71 moved; the cost of all machinery and equipment; provision for reasonable working capital,  
72 financing charges, and interest prior to and during construction; and, if deemed advisable by the  
73 Commission, for a period not exceeding one year after completion of construction, the cost of  
74 traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates  
75 of cost and of revenues, and other expenses necessary or incident to determining the feasibility  
76 or practicability of constructing ~~such the~~ project; ~~administrative expense, expenses;~~  
77 other expenses as may be necessary or incident to the construction of the project, the financing  
78 of such construction, and the placing of the project in operation. Any obligation or expense  
79 hereafter incurred by the Commonwealth Transportation Board with the approval of the  
80 Commission for traffic surveys, borings, preparation of plans and specifications, and other

81 engineering services in connection with the construction of the project shall be regarded as a  
82 part of the cost of ~~such the~~ project and shall be reimbursed to the Commonwealth Transportation  
83 Board out of the proceeds of revenue bonds issued for the project as ~~hereinafter~~ authorized in  
84 this chapter.

85 (a) "District" ~~shall mean~~ means the political subdivision of the Commonwealth, ~~duly~~  
86 ~~created by Chapter 693, as amended, of the Acts of Virginia of 1954,~~ known as the ~~Chesapeake~~  
87 ~~Bay Ferry District and to be known hereafter as the~~ Chesapeake Bay Bridge and Tunnel District.

88 (e) "Owner" ~~shall include~~ includes all persons as defined in ~~§ 1-13.19, as amended, of~~  
89 ~~the Code of Virginia § 1-230~~ having any interest or title in and to property, rights, franchises,  
90 easements, and interests authorized to be acquired by this ~~act~~ chapter.

91 (e) "Project" ~~shall mean~~ means a bridge or tunnel or a bridge and tunnel project,  
92 including the existing bridge and tunnel crossing operated by the Commission and all or a part  
93 of an additional and generally parallel bridge and tunnel crossing, from any point within the  
94 boundaries of the District to a point in the ~~county~~ County of Northampton, including such  
95 approaches and approach highways as the Commission ~~shall deem~~ deems necessary to facilitate  
96 the flow of traffic in the vicinity of such project or to connect such project with the highway  
97 system or other traffic facilities in the Commonwealth, and including all overpasses,  
98 underpasses, interchanges, entrance plazas, toll houses, service stations, garages, restaurants,  
99 and administration, storage, and other buildings and facilities ~~which that~~ the Commission may  
100 deem necessary for the operation of such project, together with all property, rights, franchises,  
101 easements, and interests ~~which that~~ may be required by the Commission for the construction or  
102 the operation of such project.

103 **Drafting note: This proposed section is derived from § 2, as amended by Chapters**  
104 **24 (1959, Extra Session) and 203 (1990), of the 1956 Act. Definitions have been put in**  
105 **alphabetical order. Technical amendments are made.**

106 § ~~5~~ 33.2-2201. Chesapeake Bay Bridge and Tunnel District.

107 ~~A political subdivision of the State of Virginia to be known as the "The~~ Chesapeake Bay  
108 Bridge and Tunnel District" is hereby created as a political subdivision of the Commonwealth.  
109 The ~~district~~ District shall comprise the area ~~now~~ included in the boundaries of the Counties of  
110 Accomack, Princess Anne and Norfolk Counties and Northampton ~~County, including the town~~  
111 ~~of Cape Charles, and;~~ within the corporate limits of the ~~cities~~ Cities of ~~Virginia Beach,~~  
112 Chesapeake, Hampton, Newport News, ~~South Norfolk, the former city of Warwick,~~ Norfolk,  
113 ~~and~~ Portsmouth, and Virginia Beach; and the area of Chesapeake Bay between these political  
114 subdivisions, ~~and by the.~~ This entity may sue and be sued under the name Chesapeake Bay  
115 Bridge and Tunnel District ~~may sue and be sued, and by and through.~~ Through its governing  
116 board, the Chesapeake Bay Bridge and Tunnel Commission ~~hereinafter created as the governing~~  
117 ~~board thereof,~~ the ~~district~~ District may plead and be impleaded, and contract with, individuals,  
118 partnerships, associations, private corporations, municipal corporations, political subdivisions of  
119 the ~~State of Virginia~~ Commonwealth, and the federal government or any agency thereof having  
120 any interest or title in and to property, rights, easements, or franchises authorized to be acquired  
121 by this ~~act~~ chapter.

122 **Drafting note: This proposed section is derived from § 5, as amended by Chapters**  
123 **462 (1956) and 605 (1962), of the 1954 Act. Technical changes are made, including**  
124 **updating the localities that make up the District.**

125 § ~~6.33.2-2202.~~ Chesapeake Bay Bridge and Tunnel Commission.

126 ~~A Commission, to be known as the "The~~ Chesapeake Bay Bridge and Tunnel  
127 Commission," is hereby created as the governing board of the Chesapeake Bay Bridge and  
128 Tunnel District created by this ~~act~~ chapter. The Commission shall consist of the following  
129 ~~eleven~~ 11 members: ~~(i)~~ one member of the Commonwealth Transportation Board, ~~(ii)~~ two  
130 members from Accomack County, ~~(iii)~~ two members from Northampton County, ~~(iv)~~ ~~one~~  
131 ~~member from the City of Portsmouth,~~ ~~(v)~~ one member from the City of Chesapeake, ~~(vi)~~ one  
132 member from the City of Hampton, ~~(vii)~~ one member from the City of Newport News, ~~(viii)~~ one  
133 member from the City of Norfolk, one member from the City of Portsmouth, and ~~(ix)~~ one

134 member from the City of Virginia Beach. The members of ~~said the~~ Commission appointed  
135 under the provisions of this section shall be residents of the counties or cities from which they  
136 are appointed.

137 ~~Any member of the Commission appointed or reappointed on or after July 1, 1998,~~  
138 members shall be appointed by the Governor, subject to confirmation by ~~each house~~ both houses  
139 of the General Assembly. Commission members shall be appointed to four-year terms. Any  
140 member of the Commission shall be eligible for reappointment to a second four-year term, but,  
141 ~~except for appointments to fill vacancies for portions of unexpired terms,~~ shall be ineligible for  
142 appointment to any additional term except for appointment to fill vacancies for portions of  
143 unexpired terms. When a vacancy ~~in the membership~~ occurs, the Governor shall appoint a new  
144 member to complete the unexpired portion of the term, subject to confirmation by ~~each house~~  
145 both houses of the General Assembly.

146 The Commission shall select a chairman, vice-chairman, secretary, and treasurer  
147 annually from its membership and as provided in its bylaws. ~~Within thirty days after the~~  
148 ~~appointment of the original members of the Commission, the Commission shall meet on the call~~  
149 ~~of any member and elect one of its members as chairman and another as vice chairman. The~~  
150 ~~Commission shall employ a secretary and treasurer ( who may or may not be a member of the~~  
151 ~~Commission) and if not a member of the Commission, fix his compensation and duties.~~  
152 Meetings of the Commission shall be held upon the call of the chairman or as otherwise  
153 provided in the bylaws of the Commission. Any member of the Commission may be removed  
154 from office for cause by the Governor. Each member of the Commission, immediately  
155 following his appointment, shall take an oath of office, prescribed by Article II, Section 7 of the  
156 Constitution of Virginia, before any judge, clerk, or deputy clerk of any court of record; any  
157 judge of a district court in the Commonwealth; the Secretary of the Commonwealth or his  
158 deputy; or a member of the State Corporation Commission. No member of the Commission  
159 shall receive any salary, but ~~shall be~~ members are entitled to expenses and ~~the~~ per diem pay  
160 ~~allowed members of the Commonwealth Transportation Board as provided in §§ 2.2-2813 and~~

161 2.2-2825. Six members of the Commission shall constitute a quorum. The records of the  
162 Commission shall be public records. The Commission is authorized to do all things necessary or  
163 incidental to the performance of its duties and the execution of its powers under this ~~act~~ chapter.  
164 The route for any bridge or tunnel, or combination thereof, built by the Commission, shall be  
165 selected, subject to the approval of the Commonwealth Transportation Board.

166 **Drafting note: This proposed section is derived from § 6, as amended by Chapters**  
167 **462 (1956), 605 (1962), 548 (1998), and 238 and 705 (2000), of the 1954 Act. Technical**  
168 **changes are made.**

169 § ~~4~~ 33.2-2203. ~~Additional Powers~~ General powers of the Commission.

170 ~~Without in any manner limiting or restricting the powers heretofore given to the~~  
171 ~~Commission, the~~ The Commission is hereby authorized and empowered:

172 ~~(a)~~ 1. To establish, construct, maintain, repair, and operate the project; provided,  
173 ~~however,~~ that no such project shall be constructed unless adequate provision ~~shall be~~ is made for  
174 the retirement of any revenue bonds ~~theretofore~~ issued by the Commission ~~under the provisions~~  
175 ~~of Chapter 693 of the Acts of Virginia of 1954;~~

176 ~~(b)~~ 2. To determine the location, character, size, and capacity of the project; to establish,  
177 limit, and control such points of ingress to and egress from the project as may be necessary or  
178 desirable in the judgment of the Commission to ~~insure~~ ensure the proper operation and  
179 maintenance of the project; and to prohibit entrance to such project from any point or points not  
180 so designated. The Commission shall coordinate ~~their~~ its plans with those of the ~~State Highway~~  
181 ~~Commission~~ Commonwealth Transportation Board insofar as practicable;

182 ~~(c)~~ 3. To secure all necessary federal authorizations, permits, and approvals for the  
183 construction, maintenance, repair, and operation of the project;

184 ~~(d) To acquire or construct enlargements or improvements to any public ferry service~~  
185 ~~then being operated by the Commission;~~

186 ~~(e)~~ 4. To make ~~rules and~~ regulations for the conduct of its business;

187 ~~(f)-5.~~ To acquire, by purchase or condemnation, in the name of the District, hold, and  
188 dispose of real and personal property for the corporate purposes of the District;

189 ~~(g)-6.~~ To acquire full information to enable it to establish, construct, maintain, repair,  
190 and operate the project;

191 ~~(h)-7.~~ To employ consulting engineers, a superintendent or manager of the project, and  
192 such other engineering, architectural, construction, and accounting experts, and inspectors ~~and~~  
193 attorneys, and ~~such~~ other employees as may be deemed necessary, and within the limitations  
194 prescribed in this ~~act~~ chapter, to prescribe their powers and duties and fix their compensation;

195 ~~(i)-8.~~ To pay, from any available moneys, the cost of plans, specifications, surveys,  
196 estimates of cost and revenues, legal fees, and other expenses necessary or incident to  
197 determining the feasibility or practicability of financing, constructing, maintaining, repairing,  
198 and operating the project;

199 ~~(j)-9.~~ To issue revenue bonds of the District, for any of its corporate purposes, payable  
200 solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as  
201 provided in this ~~act~~ chapter;

202 ~~(k)-10.~~ To fix ~~and~~, revise ~~from time to time and to~~, charge, and collect tolls and other  
203 charges for the use of the project ~~and any public ferry service then being operated by the~~  
204 Commission;

205 ~~(l)-11.~~ ~~To combine for financing purposes the project and any public ferry service or~~  
206 ~~services then being operated by the Commission~~;

207 ~~(m)-11.~~ To make and enter into all contracts or agreements, as the Commission may  
208 determine, ~~which that~~ are necessary or incidental to the performance of its duties and to the  
209 execution of the powers granted under this ~~act~~ chapter;

210 ~~(n)-12.~~ To accept loans and grants of money or materials or property at any time from  
211 the United States of America, or the ~~State of Virginia~~ Commonwealth or any agency or  
212 instrumentality thereof;

213 ~~(o)~~ 13. To adopt an official seal and alter the same at its pleasure; and to make ~~and from~~  
214 ~~time to time,~~ amend, and repeal ~~by laws, bylaws~~ and ~~rules and~~ regulations not inconsistent with  
215 law to carry into effect the powers and purposes of the Commission;

216 ~~(p)~~ 14. To sue and be sued, and to plead and be impleaded, all in the name of the  
217 District;

218 ~~(q)~~ 15. To exercise any power usually possessed by private corporations performing  
219 similar functions, including the right to expend, solely from funds provided under the authority  
220 of this ~~act~~ chapter, such funds as may be considered by the Commission to be advisable or  
221 necessary in advertising its facilities and services to the traveling public; and

222 ~~(r)~~ 16. To do all acts and things necessary or incidental to the performance of its duties  
223 and the execution of its powers under this ~~act~~ chapter.

224 **Drafting note: This proposed section is derived from § 4 of the 1956 Act. Technical**  
225 **changes are made.**

226 § ~~6~~ 33.2-2204. Incidental Powers Additional powers of the Commission.

227 The Commission ~~shall have~~ has the power ~~to:~~

228 1. To construct grade separations at intersections of the project with public highways and  
229 to change and adjust the lines and grades of such highways so as to accommodate the same to  
230 the design of such grade separation. The cost of such grade separations and any damage  
231 incurred in changing and adjusting the lines and grades of such highways shall be ascertained  
232 and paid by the Commission as a part of the cost of the project.

233 ~~If the Commission shall find it necessary to~~ 2. To change the location of any portion of  
234 any public highway, ~~it.~~ The Commission shall cause the ~~same portion of the public highway~~ to  
235 be reconstructed at such location as the Commission ~~shall deem~~ deems most favorable and of  
236 substantially the same type and in as good condition as the original highway. The cost of  
237 such reconstruction and any damage incurred in changing the location of any such highway  
238 shall be ascertained and paid by the Commission as a part of the cost of the project.

239 Any public highway affected by the construction of the project may be vacated or  
240 relocated by the Commission in the manner now provided by law for the vacation or relocation  
241 of public roads, and any damages awarded on account thereof shall be paid by the Commission  
242 as a part of the cost of the project.

243 ~~In addition to the foregoing powers, the Commission and its authorized agents and~~  
244 ~~employees may~~ 3. To enter upon any lands, waters, and premises in the ~~State~~ Commonwealth,  
245 along with its authorized agents and employees, for the purpose of making surveys, soundings,  
246 drillings, and examinations as they may deem necessary or convenient for the purposes of this  
247 ~~act~~ chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purposes  
248 be deemed an entry under any condemnation proceedings ~~which that~~ may be then pending. The  
249 Commission shall make reimbursement for any actual damage resulting to such lands, waters,  
250 and premises as a result of such activities.

251 ~~The Commission shall also have power to~~ 4. To make reasonable regulations for the  
252 installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes,  
253 mains, conduits, cables, wires, towers, poles, and other equipment and appliances (herein called  
254 "public utility facilities") of any public utility in, on, along, over, or under the project. When  
255 public utility facilities ~~which that~~ now are, or hereafter may be, located in, on, along, over, or  
256 under the project should be relocated in the project, or should be removed from the project, the  
257 public utility owning or operating such facilities shall relocate or remove the same in  
258 accordance with the order of the Commission; provided, ~~however,~~ that the cost and expenses of  
259 such relocation or removal, including the cost of installing such facilities in a new location ~~or~~  
260 ~~new locations,~~ and the cost of any lands, or any rights or interests in lands, and any other rights,  
261 acquired to accomplish such relocation or removal, shall be ascertained and paid by the  
262 Commission as a part of the cost of the project. In case of any such relocation or removal of  
263 facilities, the public utility owning or operating the ~~same~~ facilities, its successors or assigns,  
264 may maintain and operate such facilities, with the necessary appurtenances, in the new location

265 ~~or new locations~~, for as long a period, and upon the same terms and conditions, as it had the  
266 right to maintain and operate such facilities in their former location ~~or locations~~.

267 The ~~State of Virginia Commonwealth~~ hereby consents to the use of all lands owned by  
268 it, including lands lying under water, ~~which that~~ are deemed by the Commission to be necessary  
269 for the construction or operation of the project.

270 **Drafting note: This proposed section is derived from § 6 of the 1956 Act. Technical**  
271 **changes are made.**

272 ~~§ 7-A 33.2-2205. Incidental powers Regulations of the Commission; enforcement.~~

273 ~~Without in any manner limiting the general powers granted by this act, the~~ The  
274 Commission shall have power:

275 ~~(a) 1.~~ To adopt and enforce reasonable ~~rules and~~ regulations ~~which that~~, after publication  
276 one time in full in a newspaper of general circulation published in or having general circulation  
277 in the ~~city~~ City of Virginia Beach and a newspaper of general circulation published in or having  
278 general circulation in the ~~county~~ County of Northampton and when posted where the using  
279 public may conveniently see ~~the same such regulations~~, shall have the force and effect of law as  
280 to ~~(1) (i)~~ maximum and minimum speed limits applicable to motor vehicles using ~~such the~~  
281 project and other property under control of the Commission, ~~(2); (ii)~~ the types, kinds, and sizes  
282 of the vehicles ~~which that~~ may use ~~such the~~ project, ~~(3); (iii)~~ the nature, size, type, or kind of  
283 materials or substances ~~which that~~ shall not be transported through or over ~~such the~~ project; and  
284 ~~(4) (iv)~~ such other ~~rules and~~ regulations as may be necessary or expedient in the interest of  
285 public safety with respect to the use of ~~such the~~ project.

286 ~~(b) The violation of any such rules and regulations shall be punishable as follows 2. To~~  
287 punish a violation of the regulations provided for in subdivision 1 as follows:

288 ~~(1) a.~~ If ~~such~~ a violation would have been a violation of law or ordinance if committed  
289 on any public ~~road, street, or~~ highway ~~or turnpike~~ in the ~~county or municipality~~ locality in which  
290 such violation occurred, it shall be tried and punished in the same manner as if it had been  
291 committed on such public ~~road, street, or~~ highway ~~or turnpike~~.

292 b. If ~~such a~~ violation occurs within one jurisdiction and is punishable within another  
293 jurisdiction, the court trying the case shall, if the accused is found guilty, apply ~~that the~~  
294 punishment that is prescribed for offenses occurring within the jurisdiction of the court trying  
295 the case.

296 ~~(2)c.~~ All other violations shall be punishable as a misdemeanor.

297 ~~(e) 3.~~ To appoint and employ police to enforce within the area under the  
298 control of the Commission the ~~rules and~~ regulations adopted by the Commission and the laws of  
299 ~~this the~~ Commonwealth. Such police shall have the powers vested in police officers under ~~§ 15-~~  
300 ~~557 §§ 15.2-1704~~ and ~~§ 52-8 of the Code of Virginia,~~ which sections shall apply, mutatis  
301 mutandis, to police appointed under this Act pursuant to this chapter.

302 Such police appointed by the Commission may issue summons to appear, or  
303 arrest on view or on information without warrant as permitted by law, within the jurisdiction of  
304 ~~this State the~~ Commonwealth, and conduct before any police or county court of any political  
305 subdivision into which the project extends; any person violating, within or upon the project or  
306 other property under the control of the Commission, any rule or regulation of the Commission  
307 or any law of ~~this the~~ Commonwealth pertaining to the regulation and control of highway traffic  
308 on any bridge or tunnel owned or operated by the Commission, including all entrance or exit  
309 plazas and approaches adjacent or appurtenant thereto; ~~and also including, but not limited to,~~  
310 any rule or regulation regarding the payment of tolls.

311 ~~(d) 4.~~ For the purpose of enforcing such laws, ~~rules~~ and regulations, the courts of the ~~city~~  
312 City of Virginia Beach and the ~~county County~~ of Northampton ~~shall be deemed to~~ have  
313 concurrent jurisdiction of criminal offenses that constitute violations of the laws, ~~rules~~ and  
314 regulations of the Commission.

315 **Drafting note: This proposed section is derived from § 7-A, as added by Chapter**  
316 **228 (1962) and amended by Chapter 348 (1964), of the 1954 Act. Technical changes are**  
317 **made, including updating citations.**

318 ~~§ 5 33.2-2206.~~ Acquisition of Property property.

319 The Commission is hereby authorized and empowered to acquire by purchase, whenever  
320 it ~~shall deem~~ deems such purchase expedient, solely from funds provided under the authority of  
321 this ~~act chapter~~, such lands, structures, ~~rights-of-way rights-of-way~~, property, rights, franchises,  
322 easements, and other interests in lands, including lands lying under water and riparian rights,  
323 ~~which that~~ are located within the ~~State~~, Commonwealth as it may deem necessary or convenient  
324 for the construction and operation of the project, upon such terms and at such prices as may be  
325 considered by it to be reasonable and can be agreed upon between it and the owner thereof, and  
326 to take title thereto in the name of the District.

327 All ~~counties, cities, towns~~ localities and ~~other~~ political subdivisions and all public  
328 agencies and commissions of the ~~State~~ Commonwealth, notwithstanding any contrary provision  
329 of law, are hereby authorized and empowered to lease, lend, grant, or convey to the District at  
330 the Commission's request upon such terms and conditions as the proper authorities of such  
331 ~~counties, cities, towns~~ localities, political subdivisions, agencies, or commissions of the ~~State~~  
332 Commonwealth may deem reasonable and fair and without the necessity for any advertisement,  
333 order of court, or other action or formality, other than the regular and formal action of the  
334 authorities concerned, any real property ~~which that~~ may be necessary or convenient to the  
335 effectuation of the authorized purposes of the Commission, including public ~~roads~~ highways and  
336 other real property already devoted to public use.

337 Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally  
338 incapacitated or is absent, unknown, or unable to convey valid title, the Commission is hereby  
339 authorized and empowered to acquire by condemnation or by the exercise of the power of  
340 eminent domain any lands, property, rights, ~~rights-of-way rights-of-way~~, franchises, easements,  
341 and other property, including public lands, parks, playgrounds, reservations, highways, or  
342 parkways, or parts thereof or rights therein, of any person, ~~copartnership~~ partnership,  
343 association, railroad, public service, public utility or other corporation, municipality, or political  
344 subdivision deemed necessary or convenient for the construction or the efficient operation of the  
345 project or necessary in the restoration of public or private property damaged or destroyed. Such

346 proceedings shall be in accordance with and subject to the provisions of any and all laws  
347 applicable to condemnation of property in the name of the ~~State Highway Commissioner~~  
348 Commissioner of Highways under the laws of the ~~State of Virginia Commonwealth~~. Title to any  
349 property acquired by the Commission shall be taken in the name of the District. In any  
350 condemnation proceedings, the court having jurisdiction of the suit, action, or proceeding may  
351 make such orders as may be just to the Commission and to the owners of the property to be  
352 condemned and may require an undertaking or other security to secure such owners against any  
353 loss or damage by reason of the failure of the Commission to accept and pay for the property,  
354 but neither such undertaking or security nor any act or obligation of the Commission shall  
355 impose any liability upon the District except as may be paid from the funds provided under the  
356 authority of this ~~act~~ chapter.

357 If the owner, lessee, or occupier of any property to be condemned ~~shall refuse~~ refuses to  
358 remove his personal property therefrom or give up possession thereof, the Commission may  
359 proceed to obtain possession in any manner now or hereafter provided by law.

360 With respect to any railroad property or ~~right-of-way~~ right-of-way upon which railroad  
361 tracks are located, any powers of condemnation or of eminent domain may be exercised to  
362 acquire only an easement interest therein, which ~~shall be is~~ located either sufficiently far above  
363 or sufficiently far below the grade of any railroad track ~~or tracks~~ upon such railroad property so  
364 that neither the proposed project nor any part thereof, including any bridges, abutments,  
365 columns, supporting structures, and appurtenances, nor any traffic upon it ~~shall interfere~~  
366 interferes in any manner with the use, operation, or maintenance of the trains, tracks, works, or  
367 appurtenances or other property of the railroad nor endanger the movement of the trains or  
368 traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for  
369 such easement over or under such railroad property or ~~right-of-way~~ right-of-way, plans and  
370 specifications of the proposed project showing compliance with the ~~above mentioned~~ above-  
371 mentioned above or below grade requirements and showing sufficient and safe plans and  
372 specifications of such overhead or undergrade structure and appurtenances shall be submitted to

373 the railroad for examination and approval. If the railroad fails or refuses within ~~thirty~~ 30 days to  
374 approve the plans and specifications so submitted, the matter shall be submitted to the State  
375 Corporation Commission, as to the sufficiency and safety of such plans and specifications and  
376 as to such elevations or distances above or below the tracks. Said overhead or undergrade  
377 structure and appurtenances shall be constructed only in accordance with such plans and  
378 specifications and in accordance with such elevations or distances above or below the tracks so  
379 approved by the railroad or the State Corporation Commission ~~as the case may be~~. A copy of the  
380 plans and specifications approved by the railroad or the State Corporation Commission shall be  
381 filed as an exhibit with the petition for condemnation. The cost of any such overhead or  
382 undergrade projects and appurtenances and any expense and cost incurred in changing,  
383 adjusting, relocating, or removing the lines and grades of such railroad in connection with the  
384 project shall be paid by the Commission as a part of the cost of the project.

385 **Drafting note: This proposed section is derived from § 5 of the 1956 Act. Technical**  
386 **changes are made.**

387 § ~~8~~ 33.2-2207. Consent of ~~State~~ Commonwealth to use subaqueous soil of the  
388 Chesapeake Bay.

389 The ~~State of Virginia~~ Commonwealth hereby consents to the use by the ~~commission~~  
390 Commission, in any manner whatsoever in the performance of its duties ~~hereunder~~, of all lands  
391 lying under the waters of the Chesapeake Bay ~~which that~~ are within the ~~State~~ Commonwealth  
392 and are deemed by the ~~commission~~ Commission to be necessary for the construction or  
393 operation of the project.

394 **Drafting note: This proposed section is derived from § 8 of the 1954 Act. Technical**  
395 **changes are made.**

396 § ~~7~~ 33.2-2208. Revenue ~~Bonds~~ bonds.

397 The Commission is hereby authorized to provide by resolution, ~~at one time or from time~~  
398 ~~to time~~, for the issuance of revenue bonds of the District for any one or more of the following  
399 purposes: ~~(a)~~ (i) paying all or a part of the cost of all or a part of the project, ~~(b) paying the cost~~

400 ~~of acquiring or constructing enlargements or improvements to any public ferry service then~~  
401 ~~being operated by the Commission,~~ and ~~(e) (ii)~~ refunding any outstanding revenue bonds of the  
402 District ~~which shall that~~ have been issued under the provisions of this ~~act or Chapter 693 of the~~  
403 ~~Acts of Assembly of 1954 chapter,~~ including the payment of any redemption premium thereon  
404 and any interest accrued or to accrue to the date of redemption of such bonds. The principal of  
405 and the interest on such bonds shall be payable solely from the funds herein provided for such  
406 payment. The bonds of each issue shall be dated, shall bear interest at such rate ~~or rates~~ not  
407 exceeding six ~~per centum per annum percent per year~~ payable semiannually, shall mature at  
408 such time ~~or times~~, not exceeding ~~forty~~ 40 years from their date ~~or dates~~, as may be determined  
409 by the Commission, and may be made redeemable before maturity, at the option of the  
410 Commission, at such price ~~or prices~~ and under such terms and conditions as may be fixed by the  
411 Commission prior to the issuance of the bonds. The principal and interest of such bonds may be  
412 made payable in any lawful medium. The Commission shall determine the form of the bonds,  
413 including any interest coupons to be attached thereto, and the manner of execution of the bonds,  
414 and shall fix the denomination ~~or denominations~~ of the bonds and the place ~~or places~~ of  
415 payment of principal and interest thereof, which may be at any bank or trust company within or  
416 ~~without the State outside of the Commonwealth.~~ ~~In case~~ If any officer whose signature or a  
417 facsimile of whose signature ~~shall appear~~ appears on any bonds or coupons ~~shall cease~~ ceases to  
418 be such officer before the delivery of ~~such the~~ bonds ~~such, his~~ signature or such facsimile shall  
419 nevertheless be valid and sufficient for all purposes the same as if he had remained in office  
420 until ~~such~~ delivery. All revenue bonds issued under the provisions of this ~~act chapter~~ shall have  
421 and are hereby declared to have, as between successive holders, all the qualities and incidents of  
422 negotiable instruments under the negotiable instruments law of the ~~State~~ Commonwealth. The  
423 bonds may be issued in coupon or in registered form, or both, as the Commission may  
424 determine, and provision may be made for the registration of any coupon bonds as to principal  
425 alone and also as to both principal and interest, and for the reconversion of any bonds registered  
426 as to both principal and interest into coupon bonds. The Commission may sell such bonds in

427 such manner and for such price as it may determine to be for the best interest of the District, but  
428 no such sale shall be made at a price so low as to require the payment of interest on the money  
429 received therefor at more than six ~~per centum per annum~~ percent per year computed with  
430 relation to the absolute maturity of the bonds in accordance with standard tables of bond values,  
431 excluding, ~~however,~~ from such computations the amount of any premium to be paid on  
432 redemption of any bonds prior to maturity. The proceeds of such bonds shall be disbursed for  
433 the purposes for which such bonds shall have been issued under such restrictions, if any, as the  
434 resolution authorizing the issuance of such bonds or the trust indenture ~~hereinafter mentioned~~  
435 may provide provided for in this chapter. If the bonds of a particular issue, by error of estimates  
436 or otherwise, ~~shall be~~ are less than such cost, additional bonds may in like manner be issued to  
437 provide the amount of such deficit and, unless otherwise provided in the resolution authorizing  
438 the issuance of the bonds or in the trust indenture securing the same, shall be deemed to be of  
439 the same issue and shall be entitled to payment from the same fund without preference or  
440 priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue  
441 ~~shall~~ exceed the amount required for the purpose for which such bonds are issued, the surplus  
442 shall be paid into the funds hereinafter provided for the payment of principal and interest of  
443 such bonds. Prior to the preparation of definitive bonds, the Commission may, under like  
444 restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds  
445 when such bonds ~~shall~~ have been executed and are available for delivery. The Commission may  
446 also provide for the replacement of any bond ~~which shall become~~ that becomes mutilated or  
447 ~~shall be~~ that has been destroyed or lost. Such revenue bonds may be issued without any other  
448 proceedings or the happening of any other conditions or things than the proceedings, conditions,  
449 and things ~~which that~~ are specified and required by this ~~act~~ chapter.

450 **Drafting note: This proposed section is derived from § 7, as amended by Chapter**  
451 **24 (1959, Extra Session), of the 1956 Act. Technical changes are made, including removing**  
452 **plural versions of words in conformance with § 1-227, which states that a word used in the**

453 **singular includes the plural and vice versa. Also, the antiquated use of "shall" is amended**  
454 **or stricken when it doesn't mean something that's required or that must occur.**

455 § ~~3~~ 33.2-2209. Bonds not to constitute a debt or pledge of taxing power.

456 Revenue bonds issued under the provisions of this ~~act~~ chapter shall not be deemed to  
457 constitute a debt of the District or of the ~~State of Virginia~~ Commonwealth or of any county, city,  
458 district, or political subdivision thereof, or a pledge of the faith and credit of the District or of  
459 the ~~State~~ Commonwealth or of any county, city, district, or political subdivision thereof, but  
460 such bonds shall be payable solely from the funds herein provided therefor from tolls and other  
461 revenues. The issuance of revenue bonds under the provisions of this ~~act~~ chapter shall not  
462 directly or indirectly or contingently obligate the District, the ~~State~~ Commonwealth, or any  
463 county, city, district, or political subdivision thereof to levy or to pledge any form of taxation  
464 whatever therefor. All such revenue bonds shall contain a statement on their face substantially to  
465 the foregoing effect.

466 **Drafting note: This proposed section is derived from § 3 of the 1956 Act. Technical**  
467 **changes are made.**

468 § ~~8~~ 33.2-2210. Trust ~~Indenture~~ indenture.

469 In the discretion of the Commission any bonds issued under the provisions of this ~~act~~  
470 chapter may be secured by a trust indenture by and between the Commission and a corporate  
471 trustee, which may be any trust company or bank having the powers of a trust company within  
472 or ~~without the State~~ outside of the Commonwealth. Such trust indenture or the resolution  
473 providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be  
474 received, but shall not convey or mortgage the project ~~or any public ferry service then being~~  
475 ~~operated by the Commission~~ or any part thereof. Such trust indenture or resolution providing for  
476 the issuance of such bonds may contain such provisions for protecting and enforcing the rights  
477 and remedies of the bondholders as may be reasonable and proper and not in violation of law,  
478 including covenants setting forth the duties of the Commission in relation to the acquisition of  
479 property and the construction, improvement, maintenance, repair, operation, and insurance of

480 the project ~~and any public ferry service then being operated by the Commission~~ in connection  
481 with which such bonds ~~shall~~ have been authorized, the rates of toll to be charged, and the  
482 custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust  
483 company incorporated under the laws of the ~~State which~~ Commonwealth that may act as  
484 depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to  
485 pledge such securities as may be required by the Commission. Any such trust indenture may set  
486 forth the rights and remedies of the bondholders and of the trustee, and may restrict the  
487 individual right of action by bondholders. In addition to the foregoing, any such trust indenture  
488 or resolution may contain such other provisions as the Commission may deem reasonable and  
489 proper for the security of the bondholders. All expenses incurred in carrying out the provisions  
490 of such trust indenture or resolution may be treated as a part of the cost of the operation of the  
491 project ~~or any public ferry service then being operated by the Commission.~~

492 **Drafting note: This proposed section is derived from § 8 of the 1956 Act. Technical**  
493 **changes are made.**

494 § ~~9~~ 33.2-2211. Revenues.

495 The Commission is hereby authorized to fix, revise, charge, and collect tolls for the use  
496 of the project ~~or any public ferry service then being operated by the Commission~~, and to  
497 contract with any person, partnership, association, or corporation desiring the use thereof, and to  
498 fix the terms, conditions, rents, and rates of charges for such use.

499 Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the  
500 project ~~or any public ferry service then being operated by the Commission~~ in connection with  
501 which the bonds of any issue ~~shall~~ have been issued under the provisions of this ~~act~~ chapter as to  
502 provide a fund sufficient with other revenues, if any, to pay ~~(a)~~ (i) the cost of maintaining,  
503 repairing, and operating ~~such the~~ project ~~or public ferry service~~ and ~~(b)~~ (ii) the principal of and  
504 the interest on such bonds as the same ~~shall~~ become due and payable, and to create reserves for  
505 such purposes. Such tolls shall not be subject to supervision or regulation by any other  
506 commission, board, bureau, or agency of the ~~State~~ Commonwealth. The tolls and all other

507 revenues derived from the project ~~or the public ferry service~~ in connection with which the bonds  
508 of any issue ~~shall~~ have been issued, except such part thereof as may be necessary to pay such  
509 cost of maintenance, repair, and operation and to provide such reserves therefor as may be  
510 provided for in the resolution authorizing the issuance of such bonds or in the trust indenture  
511 securing the same, shall be set aside at such regular intervals as may be provided in such  
512 resolution or such trust indenture in a sinking fund ~~which that~~ is hereby pledged to, and charged  
513 with, the payment of the principal of and the interest on such bonds as the same ~~shall~~ become  
514 due, and the redemption price or the purchase price of bonds retired by call or purchase as  
515 therein provided. Such pledge shall be valid and binding from the time when the pledge is made;  
516 the tolls or other revenues or other moneys so pledged and thereafter received by the  
517 Commission shall immediately be subject to the lien of such pledge without any physical  
518 delivery thereof or further act, and the lien of any such pledge shall be valid and binding as  
519 against all parties having claims of any kind in tort, contract, or otherwise against the  
520 Commission, irrespective of whether such parties have notice thereof. Neither the resolution nor  
521 any trust indenture by which a pledge is created need be filed or recorded except in the records  
522 of the Commission. The use and disposition of moneys to the credit of such sinking fund shall  
523 be subject to the provisions of the resolution authorizing the issuance of such bonds or of such  
524 trust indenture. Except as may otherwise be provided in such resolution or such trust indenture,  
525 such sinking fund shall be a fund for all such bonds without distinction or priority of one over  
526 another.

527 **Drafting note: This proposed section is derived from § 9 of the 1956 Act. Technical**  
528 **changes are made.**

529 § ~~12~~ 33.2-2212. Cessation of ~~Tolls~~ tolls.

530 When the bonds issued for the project and the interest thereon ~~shall~~ have been paid, or a  
531 sufficient amount ~~shall have~~ has been provided for their payment and ~~shall~~ continue to be held  
532 for that purpose, the ~~commission~~ Commission shall cease to charge tolls for the use of the  
533 project, and thereafter the project shall be free; provided, ~~however,~~ that the ~~commission~~

534 Commission shall thereafter charge tolls for the use of the project in the event that tolls are  
535 required for maintaining, repairing, and operating the project due to the lack of funds from ~~other~~  
536 sources other than tolls.

537 **Drafting note: This proposed section is derived from § 12 of the 1954 Act. Technical**  
538 **changes are made.**

539 § ~~10~~ 33.2-2213. Transfer to State Commonwealth.

540 Except as ~~hereinafter~~ provided in this section, when all bonds issued under the  
541 provisions of this ~~act chapter~~ in connection with the project and the interest thereon ~~shall~~ have  
542 been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the  
543 maturity thereof ~~shall have~~ has been set aside in trust for the benefit of the bondholders, the  
544 project, if then in good condition and repair, shall become a part of the primary state highway  
545 system and shall thereafter be maintained by the ~~State Highway Commission Commonwealth~~  
546 Transportation Board free of tolls. The Commission may, in any resolution or trust indenture  
547 authorizing or securing bonds under the provisions of this ~~act chapter~~, provide for combining the  
548 project and any public ferry service ~~or services~~ then being operated by the Commission for  
549 financing purposes, and for the continuance of tolls on the project and such public ferry service  
550 ~~or services~~ until all such bonds and the interest thereon ~~shall~~ have been paid or a sufficient  
551 amount for such purposes ~~shall have~~ has been set aside in trust for the benefit of the  
552 bondholders.

553 **Drafting note: This proposed section is derived from § 10 of the 1956 Act. Technical**  
554 **changes are made.**

555 § ~~11~~ 33.2-2214. Trust ~~Funds funds~~.

556 All moneys received pursuant to the authority of this ~~act chapter~~, whether as proceeds  
557 from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied  
558 solely as provided in this ~~act chapter~~. The resolution authorizing the bonds of any issue or the  
559 trust indenture securing such bonds shall provide that any officer with whom, or any bank or  
560 trust company with which, such moneys ~~shall be~~ are deposited shall act as trustee of such

561 moneys and shall hold and apply the ~~same moneys~~ for the purposes ~~hereof provided in this~~  
562 ~~chapter~~, subject to such regulations as this ~~act chapter~~ and such resolution or trust indenture may  
563 provide.

564 **Drafting note: This proposed section is derived from § 11 of the 1956 Act. Technical**  
565 **changes are made.**

566 § ~~12~~ 33.2-2215. Remedies.

567 Any holder of bonds issued under the provisions of this ~~act chapter~~ or any of the  
568 coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the  
569 rights herein given may be restricted by such trust indenture or the resolution authorizing the  
570 issuance of such bonds, may, either at law or in equity, by suit, action, mandamus, or other  
571 proceeding, protect and enforce any and all rights under the laws of the ~~State of Virginia~~  
572 Commonwealth or granted hereunder or under such trust indenture or the resolution authorizing  
573 the issuance of such bonds, and may enforce and compel the performance of all duties required  
574 by this ~~act chapter~~ or by such trust indenture or resolution to be performed by the Commission  
575 or by any officer thereof, including the fixing, charging, and collecting of tolls.

576 **Drafting note: This proposed section is derived from § 12 of the 1956 Act. Technical**  
577 **changes are made.**

578 § ~~13~~ 33.2-2216. Exemption from ~~Taxation~~ taxation.

579 The exercise of the powers granted by this ~~act chapter~~ will be in all respects for the  
580 benefit of the people of the ~~State~~ Commonwealth and for the increase of their commerce and  
581 prosperity, and as the operation and maintenance of the project ~~and any public ferry service then~~  
582 ~~being operated by the Commission~~ will constitute the performance of essential governmental  
583 functions, the Commission shall not be required to pay any taxes or assessments upon the  
584 project ~~or any public ferry service then being operated by the Commission~~ or any property  
585 acquired or used by the Commission under the provisions of this ~~act chapter~~ or upon the income  
586 therefrom, and the bonds issued under the provisions of this ~~act chapter~~, their transfer, and the

587 income therefrom, (including any profit made on the sale thereof), shall at all times be free from  
588 taxation within the ~~State Commonwealth~~.

589 **Drafting note: This proposed section is derived from § 13 of the 1956 Act. Technical**  
590 **changes are made.**

591 § ~~15~~ 33.2-2217. Governmental ~~Function~~ function.

592 It is hereby found, determined, and declared that the creation of the District and the  
593 carrying out of its corporate purposes is in all respects for the benefit of the people of ~~this State~~  
594 the Commonwealth and is a public purpose and that the District and the ~~commission~~  
595 Commission will be performing an essential governmental function in the exercise of the  
596 powers conferred by this ~~act chapter~~, and the ~~State Commonwealth~~ covenants with the holders  
597 of the bonds issued under the provisions of this ~~act chapter~~ that the District shall not be required  
598 to pay any taxes or assessments upon any of the property acquired by it or under its jurisdiction,  
599 control, possession, or supervision or upon its activities in the operation and maintenance of the  
600 project or upon any revenues therefrom, and the project and the bonds issued in connection  
601 therewith and the income derived therefrom shall be exempt from all ~~State, municipal state~~ and  
602 local taxation.

603 **Drafting note: This proposed section is derived from § 15 of the 1954 Act. Technical**  
604 **changes are made.**

605 § ~~14~~ 33.2-2218. Bonds ~~Eligible~~ eligible for ~~Investment~~ investment.

606 Bonds issued by the District under the provisions of this ~~act chapter~~ are hereby made  
607 securities in which all public officers and public bodies of the ~~State Commonwealth~~ and its  
608 political subdivisions, and all insurance companies, trust companies, banking associations,  
609 investment companies, executors, administrators, trustees, and other fiduciaries may properly  
610 and legally invest funds, including capital in their control or belonging to them. Such bonds are  
611 hereby made securities ~~which that~~ may properly and legally be deposited with and received by  
612 any ~~State state~~ or municipal officer or any agency or political subdivision of the ~~State~~

613 Commonwealth for any purpose for which the deposit of bonds or obligations is now or may  
614 hereafter be authorized by law.

615 **Drafting note: This proposed section is derived from § 14 of the 1956 Act. Technical**  
616 **changes are made.**

617 § ~~15~~ 33.2-2219. Protection from ~~Competition~~ competition.

618 No franchise, right, or privilege shall be granted or authorized by the ~~State of Virginia~~  
619 Commonwealth or by any political subdivision or court thereof for the acquisition,  
620 establishment, construction, maintenance, repair, or operation of any bridge or tunnel or bridge  
621 and tunnel facility ~~or any public ferry service~~ from any point within the boundaries of the  
622 District to a point in the ~~county~~ County of Northampton, except to the Commission so long as  
623 any bonds issued under this ~~act shall~~ chapter remain outstanding or until provision ~~shall is~~  
624 ~~be~~ made for the payment of the principal and the interest and the premium, if any, due and  
625 payable upon all such bonds; provided, ~~however,~~ that such prohibition ~~shall does~~  
626 ~~any ferry~~ which that may ~~hereafter~~ be established for the exclusive transportation of railroad  
627 cars, or of railroad passengers holding through tickets, or to projects heretofore authorized under  
628 the ~~State Revenue Bond Act of 1940, as amended~~ Transportation Development and Revenue  
629 Bond Act (§ 33.2-XXX et seq.).

630 **Drafting note: This proposed section is derived from § 15 of the 1956 Act. Technical**  
631 **changes are made.**

632 § ~~16~~ 33.2-2220. Miscellaneous; penalties.

633 A. Any action taken by the Commission under the provisions of this ~~act~~ chapter may be  
634 authorized by resolution at any regular or special meeting, and each such resolution shall take  
635 effect immediately and need not be published or posted.

636 B. The project when constructed and opened to traffic shall be maintained and kept in  
637 good condition and repair by the Commission. The project shall also be policed and operated by  
638 such force of police, ~~toll-takers~~ toll-collectors, and other operating employees as the  
639 Commission may in its discretion employ.

640 C. All other police officers of the Commonwealth and of each ~~county, city, town~~ locality  
641 or ~~other~~ political subdivision of the Commonwealth through which any project, or portion  
642 thereof, extends shall have the same powers and jurisdiction within the limits of such projects as  
643 they have beyond such limits and shall have access to the project at any time for the purpose of  
644 exercising such powers and jurisdiction.

645 D. All private property damaged or destroyed by the construction of the project or any  
646 part thereof shall be restored or repaired and placed in its original condition as nearly as  
647 practicable or adequate compensation made therefor out of funds provided under the authority  
648 of this ~~act~~ chapter.

649 E. On or before the last day of February in each year, the Commission shall make an  
650 annual report of its activities ~~for~~ during the preceding calendar year to the Governor. ~~Each such~~  
651 In each report, the Commission shall set forth a complete operating and financial statement  
652 covering its operations during the year. The Commission shall cause an audit of its books and  
653 accounts to be made at least once in each year by certified public accountants, and the cost  
654 thereof may be treated as a part of the cost of construction or operation of the project. The  
655 records, books, and accounts of the Commission shall be subject to examination and inspection  
656 by duly authorized representatives of the Governor, the ~~State Highway Commission~~  
657 Commonwealth Transportation Board, the governing bodies of the political subdivisions  
658 constituting the District, and any bondholder ~~or bondholders~~ at any reasonable time, provided  
659 the business of the Commission is not unduly interrupted or interfered with ~~thereby by such~~  
660 action.

661 F. Any member, agent, or employee of the Commission who contracts with the  
662 Commission or District or is interested, either directly or indirectly, in any contract with the  
663 Commission or District or in the sale of any property, either real or personal, to the District shall  
664 be punished by a fine of not more than ~~One Thousand Dollars~~ \$1,000 or by imprisonment for  
665 not more than one year, or both.

666 G. Any person who uses the project and fails or refuses to pay the toll provided therefor  
667 shall be punished by a fine of not more than ~~One Hundred dollars~~ \$100 or by imprisonment for  
668 not more than ~~thirty~~ 30 days, or both, ~~and in.~~ In addition ~~thereto,~~ the Commission shall have a  
669 lien upon the vehicle driven by such person for the amount of such toll and may take and retain  
670 possession thereof until the amount of such toll and all charges in connection therewith shall  
671 have been paid.

672 **Drafting note: This proposed section is derived from § 16 of the 1956 Act. Technical**  
673 **changes are made.**

674 ~~§ 17 33.2-2221. Act Liberally Construed~~ Liberal construction.

675 This ~~act chapter,~~ being necessary for the welfare of the ~~State~~ Commonwealth and its  
676 inhabitants, shall be liberally construed to effect the purposes thereof.

677 **Drafting note: This proposed section is derived from § 17 of the 1956 Act. Technical**  
678 **changes are made.**

679 ~~§ 18 33.2-2222. Constitutional Construction~~ Severability.

680 The provisions of this ~~act chapter~~ are severable and if any of its provisions shall be held  
681 unconstitutional by any court of competent jurisdiction, the decision of such court shall not  
682 affect or impair any of the remaining provisions of this ~~act chapter.~~ ~~It is hereby declared to be~~  
683 ~~the legislative intent that this act would have been adopted had such unconstitutional provisions~~  
684 ~~not been included therein.~~

685 **Drafting note: This proposed section is derived from § 18 of the 1956 Act. Technical**  
686 **changes are made.**

1 SUBTITLE II.

2 MODES OF TRANSPORTATION: HIGHWAYS, BRIDGES, FERRIES, RAIL, AND

3 PUBLIC TRANSPORTATION.

4 **Drafting note: Proposed Subtitle II brings together Code sections that relate to the**  
5 **modes of transportation available to the Commonwealth. There are 12 chapters within this**  
6 **proposed subtitle: Highway Systems, containing sections relating to the highway systems**  
7 **and allocations; Limited Access Highways, Scenic Highways and Virginia Byways, and**  
8 **Highways over Dams; HOV Lanes and HOT Lanes; Toll Facilities and Ferries; Local**  
9 **Authority over Highways; Offenses Concerning Highways; Abandonment and**  
10 **Discontinuance of Highways and Roads; Eminent Domain; Highway Construction**  
11 **Contracts and Highway Contractors' Association; Outdoor Advertising in Sight of Public**  
12 **Highways; Woodrow Wilson Bridge and Tunnel Compact; and the Virginia-North**  
13 **Carolina Interstate High-Speed Rail Compact.**

14 CHAPTER 3.

15 HIGHWAY SYSTEMS.

16 **Drafting note: This proposed Chapter 3 assembles Code sections relating to the**  
17 **Interstate System, the primary state highway system, the secondary state highway system,**  
18 **the urban highway system, and allocations made to highways.**

19 Article ~~3~~1.

20 ~~The~~ Interstate System.

21 **Drafting note: Existing Article 3 of Chapter 1 is relocated as proposed Article 1 of**  
22 **Chapter 3 in Subtitle II, Modes of Transportation.**

23 ~~§ 33.1-48. Interstate System authorized; what constitutes.~~

24 ~~There is hereby authorized a system of interstate highways to constitute a part of the~~  
25 ~~National System of Interstate and Defense Highways as authorized and designated in~~  
26 ~~accordance with § 7 of the Federal Aid Highway Act of 1944 and § 108(a) of the Federal Aid~~  
27 ~~Highway Act of 1956, hereinafter referred to as "Interstate System."~~

28           ~~The Interstate System, as used in this article and elsewhere in the Code of Virginia, shall~~  
29 ~~be those highways, or sections thereof, declared by resolution of the Commonwealth~~  
30 ~~Transportation Board to be portions of the Interstate System, and may include existing highways~~  
31 ~~and streets, even though established as turnpikes, toll projects, revenue bond projects, or streets~~  
32 ~~of cities and towns.~~

33           **Drafting note: The existing definition of the Interstate System is stricken and set**  
34 **out instead in proposed § 33.2-100, the definitions section for the title.**

35           ~~§ 33.1-49, 33.2-300.~~ Power and authority of Commonwealth Transportation Board  
36 relating to the Interstate System, generally.

37           ~~The Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct,  
38 reconstruct, improve, maintain, discontinue, abandon<sub>2</sub> and regulate the use of the Interstate  
39 System in the same manner in which it is now or may be authorized to plan, designate, acquire,  
40 open, construct, reconstruct, improve, maintain, discontinue, abandon<sub>2</sub> and regulate the use of  
41 the primary state highway system ~~of state highways~~. The Board may vacate, close<sub>2</sub> or change the  
42 location of any highway or street ~~or public way~~ in the manner in which it is now authorized by  
43 law to vacate, close<sub>2</sub> or change the location of a highway in the primary state highway system.  
44 The Board ~~shall have~~ has any and all other authority and power relative to ~~such the~~ Interstate  
45 System as is vested in it relative to highways in the primary state highway system ~~and shall~~  
46 include, including the right to acquire by purchase, eminent domain, grant<sub>2</sub> or dedication title to  
47 lands or rights-of-way for such interstate highways whether within or without the limits of any  
48 city or town, and in addition thereto, ~~shall have~~ has such other power, control<sub>2</sub> and jurisdiction  
49 necessary to comply with the provisions of the Federal-Aid Highway Act of 1956 and all acts  
50 amendatory or supplementary thereto, all other provisions of law to the contrary  
51 notwithstanding.

52           **Drafting note: Technical changes.**

53           ~~§ 33.1-49.1, 33.2-301.~~ Contracts for maintenance of components of Interstate ~~Highway~~  
54 System.

55 All maintenance on components of the Interstate ~~Highway~~ System ~~in Virginia~~, excluding  
56 frontage roads, shall be carried out under contracts awarded by the Commissioner of Highways  
57 or the ~~Commonwealth Transportation~~ Board pursuant to § ~~33.1-12~~ 33.2-XXX, except for  
58 instances where good and sufficient reasons for not doing so ~~shall~~ have been shown in advance  
59 in writing by the Commissioner of Highways to the ~~Commonwealth Transportation~~ Board and  
60 to the ~~chairmen~~ Chairmen of the House Committee on Transportation, the House Committee on  
61 Appropriations, the House Committee on Finance, the Senate Committee on Transportation, and  
62 the Senate Committee on Finance. Nothing in this section shall be construed to prevent the  
63 ~~Virginia Department of Transportation~~ from performing emergency work at any time on the  
64 Interstate System with its own employees or agents or to assume the maintenance  
65 responsibilities of a contractor who has been determined to be in default or as a result of a  
66 contract termination.

67 **Drafting note: Technical changes.**

68 § ~~33.1-50~~ 33.2-302. Funds for establishment and maintenance of Interstate System,  
69 generally.

70 The ~~roads~~ highways embraced within the Interstate System shall be established,  
71 constructed, and maintained by the Commonwealth under the direction and supervision of the  
72 Commissioner of Highways with ~~such~~ state funds as may ~~hereafter~~ be appropriated and made  
73 available for such purposes, together with such appropriations as may ~~hereafter~~ be made by any  
74 ~~county, city or town~~ locality in ~~this the~~ Commonwealth and ~~such~~ funds as are now available or  
75 ~~which that~~ may ~~hereafter~~ be derived from the federal government for such purposes. State funds  
76 for repayment of federal construction advances may be raised by toll facilities, if approved by  
77 the Federal Highway Administration.

78 **Drafting note: Technical changes.**

79 § ~~33.1-51~~ 33.2-303. Portions of Interstate System within cities and towns.

80 Whenever any portion of the Interstate System ~~which~~ that is to be constructed within  
81 cities or towns is to occupy existing streets, the right-of-way in the street shall be occupied by  
82 the Interstate System free of cost ~~of~~ to the Commonwealth.

83 When the Interstate System extending into or through cities or towns has been  
84 constructed to the required standards, streets or ~~roads~~ highways occupied thereby, shall cease to  
85 be maintained and controlled by the governing bodies of such cities or towns, and such cities  
86 and towns shall thereafter be relieved from all civil liability arising from the physical condition  
87 of such streets or ~~roads~~ highways. Such streets and ~~roads~~ highways shall not be considered as  
88 mileage for which the ~~Commonwealth Transportation~~ Board is required to make payment to  
89 such cities or towns by any other ~~provisions~~ provision of law.

90 Nothing contained in this article shall relieve the cities or towns through which any  
91 portion of the Interstate System is projected from the responsibility for the preservation of  
92 public peace, prevention of crime, apprehension of criminals, protection of the rights of persons  
93 and property, and enforcement of the laws of the Commonwealth, and the ~~rules and~~ regulations  
94 enacted pursuant thereto, nor shall anything contained herein be considered as a waiver by the  
95 Commonwealth of its immunity from liability for tort.

96 **Drafting note: Technical changes are made, including changing "rules and**  
97 **regulations" to "regulations" per recommendation of the Code Commission.**

98 § ~~33.1-52~~ 33.2-304. Transfer of ~~roads, etc.,~~ highways, bridges, and streets from the  
99 secondary and primary state highway systems to Interstate System.

100 The ~~Commonwealth Transportation~~ Board may transfer such ~~roads~~ highways, bridges,  
101 and streets as ~~the Board shall deem it deems~~ proper from the primary or secondary ~~or primary~~  
102 state highway system ~~of state highways~~ to the Interstate System ~~of State Highways~~. Upon such  
103 transfer, the ~~roads~~ highways, bridges, and streets so transferred shall become for all purposes  
104 parts of the Interstate System ~~of State Highways~~ and thereafter cease being parts of the primary  
105 or secondary ~~or primary state highway~~ system ~~of state highways~~. The Board may add such ~~roads~~

106 highways, bridges, and streets as it deems proper to the Interstate System without limitations as  
107 to mileage.

108 **Drafting note: Technical changes are made.**

109 § ~~33.1-53~~ 33.2-305. Transfer of ~~roads, etc.,~~ highways, bridges, and streets from Interstate  
110 System to primary or secondary ~~or primary state highway~~ system.

111 The ~~Commonwealth Transportation~~ Board may transfer such ~~roads~~ highways, bridges,  
112 and streets as ~~the Board shall deem it deems~~ proper from the Interstate System ~~of State~~  
113 Highways to the primary ~~system~~ or secondary state highway system ~~of state highways~~ without  
114 limitations as to mileage; ~~upon~~ Upon such transfer, the ~~roads~~ highways, bridges, and streets so  
115 transferred shall become for all purposes parts of the primary ~~system~~ or secondary state highway  
116 system ~~of state highways~~ and thereafter cease being parts of the Interstate System ~~of State~~  
117 Highways.

118 **Drafting note: Technical changes are made.**

119 § ~~33.1-54~~ 33.2-306. Applicability of §§ ~~33.1-49~~ 33.2-XXX through ~~33.1-53, 33.2-XXX~~  
120 to toll projects.

121 The provisions of §§ ~~33.1-49 to 33.1-53, inclusive, of this article~~ 33.2-XXX through  
122 33.2-XXX shall not become effective with respect to those segments of the Interstate System  
123 constructed and financed as toll projects until the revenue bonds and the interest thereon issued  
124 on account of ~~said such~~ toll projects ~~shall~~ have been paid or a sufficient amount for the payment  
125 of all such bonds and the interest to maturity thereon ~~shall have has~~ been set aside in trust for the  
126 benefit of the respective bondholders. When the bonds and interest thereon, outstanding on  
127 account of such projects, ~~shall~~ have been paid or a sufficient amount for the payment of such  
128 bonds and the interest thereon to the maturity thereof ~~shall have has~~ been so set aside in trust,  
129 and when the ~~Commonwealth Transportation~~ Board ~~shall have has~~ by formal action, recorded in  
130 its minutes, determined the existence of such fact, then ~~and in such event~~, the provisions of ~~this~~  
131 article §§ 33.2-XXX through 33.2-XXX shall fully apply to such projects.

132 **Drafting note: Technical changes.**

133 § ~~33.1-55~~ 33.2-307. Relocation or removal of utility facilities within projects on  
134 Interstate System.

135 A. For the purposes of this section:

136 "Cost of highway construction" includes the cost of relocating or removing utility  
137 facilities in connection with any project on the Interstate System within cities or towns.

138 "Cost of relocation or removal" includes the entire amount paid by such utility properly  
139 attributable to such relocation or removal after deducting any increase in the value of the new  
140 facility and any salvage value derived from the old facility.

141 "Facility of a utility" includes tracks, pipes, mains, conduits, cables, wires, towers, or  
142 other structures, equipment, and appliances.

143 "Utility" includes publicly, privately, and cooperatively owned utilities.

144 B. Whenever the Board ~~shall determine~~ determines that it is necessary that any ~~tracks,~~  
145 ~~pipes, mains, conduits, cables, wires, towers, or other structures, equipment, and appliances~~  
146 ~~(herein called "facilities")~~ facility of ~~any a~~ utility ~~as herein defined~~, in, on, under, over, or along  
147 existing streets ~~which that~~ are to be included within any project on the Interstate System within  
148 cities or towns should be relocated or removed, the owner or operator of such ~~facilities~~ facility  
149 shall relocate or remove the same in accordance with the order of the Board. The cost of such  
150 relocation or removal, ~~as herein defined~~, including the cost of installing such ~~facilities~~ facility in  
151 a new location ~~or locations~~, and the cost of any lands, or any rights or interest in lands, and any  
152 other rights, required to accomplish such relocation or removal, shall be ascertained and paid by  
153 the Board as a part of the cost of ~~such~~ the project.

154 ~~For the purposes of this section, the term "utility" shall include publicly, privately, and~~  
155 ~~cooperatively owned utilities and the term "cost of relocation or removal" shall include the~~  
156 ~~entire amount paid by such utility properly attributable to such relocation or removal after~~  
157 ~~deducting therefrom any increase in the value of the new facility and any salvage value derived~~  
158 ~~from the old facility.~~

159 ~~The cost of relocating or removing utility facilities in connection with any project on the~~  
160 ~~Interstate System within cities or towns is hereby declared to be a cost of highway construction.~~

161 **Drafting note: Definitions are moved from the content of the section to the**  
162 **beginning of the section, in keeping with current practice. Plural references are removed**  
163 **pursuant to § 1-227. Technical changes are made.**

164 § ~~33.1-56~~ 33.2-308. ~~Relocation~~ Additional provisions on relocation or removal of utility  
165 facilities within projects on ~~interstate system; additional provisions~~ Interstate System.

166 A. For the purposes of this section:

167 "Cost of highway construction" includes the cost of relocating or removing utility  
168 facilities in connection with any project on the Interstate System or primary state highway  
169 system within counties.

170 "Cost of relocation or removal" includes the entire amount paid by such utility properly  
171 attributable to such relocation or removal after deducting therefrom any increase in the value of  
172 the new facility and any salvage value derived from the old facility.

173 "Facility of a utility" includes pipes, mains, storm sewers, water lines, sanitary sewers,  
174 natural gas facilities, or other structures, equipment, and appliances.

175 B. Whenever the Board determines that it is necessary to relocate or remove any ~~pipes,~~  
176 ~~mains, storm sewers, water lines, sanitary sewers, natural gas facilities, or other structures,~~  
177 ~~equipment, and appliances (herein called facilities)~~ facility of ~~any a~~ utility owned by (i) a  
178 county, (ii) a political subdivision of the Commonwealth or county, or (iii) a nonprofit,  
179 consumer-owned company, located in a county having a population of at least 32,000 but no  
180 more than 34,000, that (a) is exempt from income taxation under § 501(c)(3) of the Internal  
181 Revenue Code, (b) is organized to provide suitable drinking water, (c) has no assistance from  
182 investors, (d) does not pay dividends, and (e) does not sell stock to the general public, or storm  
183 sewers, water lines, natural gas facilities, or sanitary sewers owned by a city and extending into  
184 any county; in, on, under, over, or along existing highways ~~which that~~ are to be included within  
185 any project on the ~~interstate system~~ Interstate System or the primary state highway system

186 within any county, the county or political subdivision of the Commonwealth or county,  
187 consumer-owned company, or city, ~~as the case may be,~~ shall relocate or remove the same in  
188 accordance with the order of the Board. The cost of such relocation or removal, ~~as herein~~  
189 ~~defined,~~ including the cost of installing such ~~facilities~~ facility in a new location ~~or locations,~~ and  
190 the cost of any lands, or any rights or interest in lands, and any other rights, required to  
191 accomplish such relocation or removal, shall be ascertained and paid by the Board as a part of  
192 the cost of ~~such~~ the project.

193 ~~For the purposes of this section, the term "cost of relocation or removal" shall include~~  
194 ~~the entire amount paid for the relocation or removal of such utility facilities properly attributable~~  
195 ~~to such relocation or removal after deducting therefrom any increase in the value of the new~~  
196 ~~facility and any salvage value derived from the old facility.~~

197 ~~The cost of relocating or removing such utility facilities in connection with any project~~  
198 ~~on the interstate system or primary system within counties is hereby declared to be a cost of~~  
199 ~~highway construction.~~

200 **Drafting note: Definitions are moved from the content of the section to the**  
201 **beginning of the section, in keeping with current practice. Plural references are removed**  
202 **pursuant to § 1-227. Technical changes are made.**

203 § ~~33.1-23.03:10~~ 33.2-309. Tolls for use of Interstate ~~Highway~~ System components.

204 A. Notwithstanding any contrary provision of this title and in accordance with all  
205 applicable federal and state statutes and requirements, the ~~Commonwealth Transportation~~ Board  
206 may impose and collect tolls from all classes of vehicles in amounts established by the Board  
207 for the use of any component of the Interstate ~~Highway~~ System within the Commonwealth.  
208 However, prior approval of the General Assembly shall be required prior to the imposition and  
209 collection of any toll for use of all or any portion of Interstate Route 81. Such funds so collected  
210 shall be deposited into the Transportation Trust Fund established pursuant to § ~~33.1-23.03:1~~  
211 33.2-XXX, subject to allocation by the Board as provided in this section.

212 B. The toll facilities authorized by this section shall be subject to the provisions of  
213 federal law for the purpose of tolling motor vehicles to finance interstate construction and  
214 reconstruction, promote efficiency in the use of highways, reduce traffic congestion, and  
215 improve air quality and for such other purposes as may be permitted by federal law.

216 C. In order to mitigate traffic congestion in the vicinity of the toll facilities, no toll  
217 facility shall be operated without high-speed automated toll collection technology designed to  
218 allow motorists to travel through the toll facilities without stopping to make payments. Nothing  
219 in this subsection shall be construed to prohibit a toll facility from retaining means of ~~non-~~  
220 automated nonautomated toll collection in some lanes of the facility. The Board shall also  
221 consider traffic congestion and mitigation thereof and the impact on local traffic movement as  
222 factors in determining the location of the toll facilities authorized pursuant to this section.

223 D. The revenues collected from each toll facility established pursuant to this section  
224 shall be deposited into segregated subaccounts in the Transportation Trust Fund and may be  
225 allocated by the ~~Commonwealth Transportation~~ Board as the Board deems appropriate to:

226 1. Pay or finance all or part of the costs of programs or projects, including ~~without~~  
227 limitation the costs of planning, operation, maintenance, and improvements incurred in  
228 connection with the toll facility, provided that such allocations shall be limited to programs and  
229 projects that are reasonably related to or benefit the users of the toll facility. The priorities of  
230 metropolitan planning organizations, planning district commissions, local governments, and  
231 transportation corridors shall be considered by the Board in making project allocations from  
232 such revenues deposited into the Transportation Trust Fund.

233 2. Repay funds from the Toll Facilities Revolving Account or the Transportation  
234 Partnership Opportunity Fund.

235 3. Pay the Board's reasonable costs and expenses incurred in the administration and  
236 management of the ~~Toll Facility~~ toll facility.



264 ~~§§ 33.1-26 through 33.1-30.~~

265 **Drafting note: Repealed by Acts 2003, c. 302, cl. 2.**

266 ~~§ 33.1-31 33.2-311.~~ Certain ~~park roads~~ highways in parks included in primary state  
267 highway system.

268 All ~~roads~~ highways in ~~the several~~ state parks ~~providing that provide~~ connections between  
269 highways, in either the primary or secondary state highway system, outside ~~of~~ such parks and  
270 ~~the~~ recreation centers ~~in~~ within such parks shall continue to be ~~and constitute~~ portions of the  
271 primary state highway system ~~of state highways and as such be constructed, reconstructed,~~  
272 ~~improved and maintained.~~

273 ~~All roads, bridges and toll facilities constructed by way of revenue bonds issued by the~~  
274 ~~Department of Conservation and Recreation shall operate under the terms of their establishment~~  
275 ~~as a park facility, notwithstanding the right of the Commissioner of Highways to use highway~~  
276 ~~funds to maintain them.~~

277 **Drafting note: Technical changes. The second paragraph of this section is moved to**  
278 **the subsequent section, § 33.1-32, as it is more closely related to that section.**

279 ~~§ 33.1-32 33.2-312.~~ Maintenance of ~~roads~~ highways, bridges, and toll facilities within  
280 ~~boundaries of~~ state parks.

281 The Commissioner of Highways may maintain all ~~roads~~ highways, bridges, and toll  
282 facilities ~~situated~~ within the boundaries of any state park ~~heretofore or hereafter~~ established by,  
283 and under the control of, the Department of Conservation and Recreation. For the purpose of  
284 maintaining the ~~roads~~ highways in any such park, the Commissioner of Highways may expend  
285 funds under his control and available for expenditures upon the maintenance of ~~roads~~ highways  
286 in the secondary state highway system ~~of state highways~~ in the county or counties in which such  
287 state park is located. This section shall not affect the jurisdiction, control, and right to establish  
288 such ~~roads~~ highways, bridges, and toll facilities ~~which that~~ are now vested in the Department of  
289 Conservation and Recreation.

290 All roads, bridges and toll facilities constructed by way of revenue bonds issued by the  
291 Department of Conservation and Recreation shall operate under the terms of their establishment  
292 as a park facility, notwithstanding the right of the Commissioner of Highways to use highway  
293 funds to maintain them.

294 **Drafting note: Technical changes. The second paragraph of § 33.1-31 is moved to**  
295 **this section because it is more relevant here.**

296 § ~~33.1-33~~ 33.2-313. Maintenance of ~~roads~~ highways at state institutions.

297 The Commissioner of Highways may, when requested by the governing body of a state  
298 institution, assume the maintenance of any ~~road situated~~ highway within the grounds of such  
299 state institution ~~which that~~ has ~~heretofore~~ been ~~or is hereafter~~ established and constructed by  
300 such institution to standards acceptable to the Commissioner of Highways. Any such ~~roads~~  
301 highways accepted for maintenance by the Commissioner of Highways under the provisions of  
302 this section shall be a part of the ~~State Highway System~~ primary state highway system, but the  
303 state institution shall continue to exercise police power over such ~~roads~~ highways.

304 **Drafting note: Does this mean state institutions as defined in Title 23, i.e., higher**  
305 **education? Technical changes.**

306 § ~~33.1-34~~ 33.2-314. Transfer of ~~roads~~ highways, etc., from secondary to primary state  
307 highway system; additions to primary state highway system.

308 A. The ~~Commonwealth Transportation~~ Board may transfer such ~~roads~~ highways,  
309 bridges, and streets as ~~the Board shall deem it deems~~ proper from the secondary state highway  
310 system ~~of state highways~~ to the primary state highway system ~~of state highways; upon. Upon~~  
311 such transfer, the ~~roads~~ highways, bridges, and streets so transferred shall become for all  
312 purposes parts of the primary state highway system ~~of state highways~~ and ~~thereafter~~ cease being  
313 parts of the secondary state highway system ~~of state highways~~. The Board may add such ~~roads~~  
314 highways, bridges, and streets as it ~~shall deem deems~~ proper to the primary state highway  
315 system. The total mileage of such ~~roads~~ highways, bridges, and streets so transferred or added  
316 by the Board shall not, ~~however~~, exceed 50 miles during any one year.

317 B. ~~In cases where~~ When the Chief Engineer of the Department ~~of Transportation~~  
318 recommends that it is appropriate in connection with the completion of a construction or  
319 maintenance project to transfer ~~roads highways~~, bridges, and streets from the secondary state  
320 highway system ~~of state highways~~ to the primary state highway system ~~of state highways~~, the  
321 Commissioner of Highways may transfer such ~~roads highways~~, bridges, and streets as he deems  
322 proper. Upon such transfer, the ~~roads highways~~, bridges, and streets so transferred shall become,  
323 for all purposes, parts of the primary state highway system ~~of state highways~~ and ~~thereafter~~  
324 cease being parts of the secondary state highway system ~~of state highways~~.

325 **Drafting note: Technical changes are made.**

326 § ~~33.1-35~~ 33.2-315. Transfer of ~~roads highways~~, etc., from primary to secondary state  
327 highway system.

328 The ~~Commonwealth Transportation~~ Board may transfer such ~~roads highways~~, bridges,  
329 and streets as ~~the Board shall deem it deems~~ proper from the primary state highway system ~~of~~  
330 ~~state highways~~ to the secondary state highway system ~~of state highways~~ or, if requested by the  
331 local governing body, to the local system of roads operated by a locality receiving payments  
332 pursuant to § ~~33.1-23.5:1~~ 33.2-XXX or ~~33.1-41.1~~; ~~upon~~ 33.2-XXX. Upon such transfer, the  
333 ~~roads highways~~, bridges, and streets so transferred shall become for all purposes parts of the  
334 secondary state highway system ~~of state highways~~ or the local system of roads operated by a  
335 locality receiving payments pursuant to § ~~33.1-23.5:1~~ 33.2-XXX or ~~33.1-41.1~~, ~~and thereafter~~  
336 ~~cease being parts of the primary system of state highways~~ 33.2-XXX. The total mileage of such  
337 ~~roads highways~~, bridges, and streets so transferred by the Board shall not, ~~however~~, exceed 150  
338 miles during any one year.

339 In cases where the Chief Engineer of the Department ~~of Transportation~~ recommends that  
340 it is appropriate in connection with the completion of a construction or maintenance project to  
341 transfer ~~roads highways~~, bridges, and streets from the primary state highway system ~~of state~~  
342 ~~highways~~ to the secondary state highway system ~~of state highways~~, the Commissioner of  
343 Highways may transfer such ~~roads highways~~, bridges, and streets as he deems proper. Upon

344 such transfer, the ~~roads~~ highways, bridges, and streets so transferred shall become for all  
345 purposes parts of the secondary state highway system ~~of state highways~~ and ~~thereafter~~ cease  
346 being parts of the primary state highway system ~~of state highways~~.

347 **Drafting note: Technical changes are made.**

348 § ~~33.1-36~~ 33.2-316. ~~Map~~ Primary state highway system map.

349 The Commissioner of Highways shall prepare and keep on file in his office for public  
350 inspection a complete map showing the routes of the ~~State Highway System located and~~ primary  
351 state highway system ~~established in pursuance of the law~~.

352 **Drafting note: Technical changes.**

353 § ~~33.1-37~~ 33.2-317. Establishment, construction, and maintenance exclusively by  
354 Commonwealth; funds.

355 The ~~roads~~ highways embraced within ~~"The State Highway System"~~ the primary state  
356 highway system shall be established, constructed, and maintained exclusively by the  
357 Commonwealth under the direction and supervision of the Commissioner of Highways, with  
358 such state funds as may ~~hereafter~~ be appropriated and made available for such purposes,  
359 together with such appropriations as may be ~~hereafter~~ made by any county, district, city, or town  
360 in ~~this the~~ Commonwealth and such funds as are ~~now~~ available or ~~which may hereafter be~~  
361 derived from the federal government for ~~road~~ highway building and improvement in ~~this the~~  
362 Commonwealth.

363 **Drafting note: Technical changes.**

364 § ~~33.1-38~~.

365 **Drafting note: Repealed by Acts 1977, c. 578.**

366 § ~~33.1-39~~ 33.2-318. Bypasses through or around cities and ~~incorporated~~ towns.

367 A. The Commissioner of Highways may acquire by gift, purchase, exchange,  
368 condemnation, or otherwise, such lands or interest therein, necessary or proper for the purpose,  
369 and may construct and improve thereon such bypasses or extensions and connections of the  
370 primary state highway system ~~of state highways~~ through or around cities and ~~incorporated~~

371 towns; as the Board ~~may deem~~ deems necessary for the uses of the ~~State Highway System;~~  
372 primary state highway system, provided; that the respective cities and ~~the incorporated~~ towns ~~of~~  
373 with populations of 3,500 ~~population~~, or more; by action of their governing bodies agree to  
374 participate in accordance with the provisions of § ~~33.1-44~~ 33.2-XXX in all costs of such  
375 construction and improvement, including the cost of rights-of-way, on that portion of any such  
376 bypass or extension ~~which that~~ is located within any such city or ~~incorporated~~ town. The  
377 maintenance of that portion of a bypass or extension located within a city or ~~incorporated~~ town  
378 shall be borne by the city or town. However, the Board shall contribute to such maintenance in  
379 accordance with the provisions of law governing its contribution to the maintenance of ~~streets;~~  
380 roads and highways, bridges, and streets in such cities and ~~incorporated~~ towns. The location,  
381 form, and character of informational, regulatory, and warning signs, curb and pavement, or  
382 other markings and traffic signals installed or placed by any public authority shall be subject to  
383 the approval of the Commissioner of Highways. At both ends of bypasses through or around  
384 cities and ~~incorporated~~ towns, the Commissioner of Highways shall erect and maintain adequate  
385 directional signs of sufficient size and suitable design to indicate clearly the main route ~~or routes~~  
386 leading directly into such cities and ~~incorporated~~ towns.

387 B. Notwithstanding the ~~above provisions of subsection A~~, in any case ~~where in which~~ a  
388 municipality refuses to contribute to the construction of a bypass or an extension or connection  
389 of the primary state highway system within said municipality, the Commissioner of Highways  
390 may construct such bypass or extension and connection without any contribution by the  
391 municipality when the Board determines that such bypass or extension and connection is  
392 primarily rural in character and that the most desirable and economical location is within ~~said~~  
393 the municipality. Any bypass or extension and connection built under this ~~provision-subsection~~  
394 shall be maintained by the Commissioner of Highways as a part of the primary state highway  
395 system, and the municipality shall receive no payment for such bypass or extension and  
396 connection under § ~~33.1-41.1~~ 33.2-XXX.

397 C. All the provisions of general law relating to the exercise of eminent domain by the  
398 Commissioner ~~shall be of Highways are~~ applicable to such bypasses, ~~or~~ extensions, ~~or~~ and  
399 connections of the primary state highway system ~~of state highways~~.

400 D. The Board may expend out of funds appropriated to the Board under subsection B  
401 and subdivision C 1 of § 33.1-23.1 A and B-1 33.2-XXX such funds as may be necessary to  
402 carry out the provisions of this section.

403 **Drafting note: Plural references are removed pursuant to § 1-227. Technical**  
404 **changes.**

405 ~~§ 33.1-40.~~

406 **Drafting note: Repealed by Acts 1977, c. 578.**

407 ~~§ 33.1-41.~~

408 **Drafting note: Repealed by Acts 1985, c. 42.**

409 ~~§ 33.1-41.1 33.2-319.~~ Payments to cities and certain towns for maintenance of certain  
410 highways.

411 The Commissioner of Highways, subject to the approval of the ~~Commonwealth~~  
412 ~~Transportation~~ Board, shall make payments for maintenance, construction, or reconstruction of  
413 highways, ~~as hereinafter provided~~, to all cities and towns eligible for allocation of construction  
414 funds for urban highways under ~~§ 33.1-23.3 33.2-XXX~~. Such payments, however, shall only be  
415 made if those highways functionally classified as principal and minor arterial roads are  
416 maintained to a standard satisfactory to the Department ~~of Transportation~~. Whenever any city or  
417 town qualifies under this section for allocation of funds, such qualification shall continue to  
418 apply to such city or town regardless of any subsequent change in population and shall cease to  
419 apply only when so specifically provided by an act of the General Assembly. All allocations  
420 made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions  
421 of this section are hereby confirmed.

422 No payments shall be made to any such city or town unless the portion of the highway  
423 for which such payment is made either ~~(a) (i)~~ has ~~(i) (a)~~ an unrestricted right-of-way at least 50

424 feet wide and ~~(ii) (b)~~ a hard-surface width of at least 30 feet; ~~or (b) (ii)~~ has ~~(i) (a)~~ an unrestricted  
425 right-of-way at least 80 feet wide, ~~(ii) (b)~~ a hard-surface width of at least 24 feet, and ~~(iii) (c)~~  
426 approved engineering plans for the ultimate construction of an additional hard-surface width of  
427 at least 24 feet within the same right-of-way; ~~or (e) (i) (iii) (a)~~ is a cul-de-sac, ~~(ii) (b)~~ has an  
428 unrestricted right-of-way at least 40 feet wide, and ~~(iii) (c)~~ has a turnaround that meets  
429 applicable standards set by the Department ~~of Transportation~~; ~~or (d) (iv)~~ either ~~(i) (a)~~ has been  
430 paved and has constituted part of the primary or secondary state highway systems ~~system of~~  
431 state highways prior to annexation or incorporation or ~~(ii) (b)~~ has constituted part of the  
432 secondary state highway ~~system of state highways~~ prior to annexation or incorporation and is  
433 paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with  
434 the further exception of streets or portions thereof ~~which that~~ have previously been maintained  
435 under the provisions of § ~~33.1-79 33.2-XXX~~ or § ~~33.1-82 33.2-XXX~~; ~~or (e) (v)~~ was eligible for  
436 and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985;  
437 ~~or (f) (vi)~~ is a street established prior to July 1, 1950, ~~which that~~ has an unrestricted right-of-way  
438 width of not less than 30 feet and a hard-surface width of not less than 16 feet; ~~or (g) (vii)~~ is a  
439 street functionally classified as a local street ~~and that was~~ constructed on or after January 1,  
440 1996, ~~which and that~~ at the time of approval by the city or town met the criteria for pavement  
441 width and right-of-way of the then-current ~~edition of the subdivision street requirements manual~~  
442 for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.) design  
443 standards for subdivision streets; ~~(h) (viii)~~ is a street previously eligible to receive street  
444 payments that is located in the City of Norfolk ~~and or~~ the City of Richmond and is closed to  
445 public travel, pursuant to legislation enacted by the governing body of the city locality in which  
446 it is located, for public safety reasons, within the boundaries of a publicly funded housing  
447 development owned and operated by the local housing authority; or ~~(i) (ix)~~ is a local street,  
448 otherwise eligible, containing one or more physical protuberances placed within the right-of-  
449 way for the purpose of controlling the speed of traffic.

450 |       However, the Commissioner of Highways may waive the requirements as to hard-  
451 | surface pavement or right-of-way width for highways where the width modification is at the  
452 | request of the ~~local~~ governing body of the locality and is to protect the quality of the affected  
453 | ~~local government's locality's~~ drinking water supply or, for highways constructed on or after July  
454 | 1, 1994, to accommodate some other special circumstance where such action would not  
455 | compromise the health, safety, or welfare of the public. The modification is subject to such  
456 | conditions as the Commissioner of Highways may prescribe.

457 |       For the purpose of calculating allocations and making payments under this section, the  
458 | Department shall divide affected highways into two categories, which shall be distinct from but  
459 | based on functional classifications established by the Federal Highway Administration: ~~(i) (1)~~  
460 | principal and minor arterial roads and ~~(ii) (2)~~ collector roads and local streets. Payments made to  
461 | affected localities shall be based on the number of moving-lane-miles of highways or portions  
462 | thereof available to peak-hour traffic in that locality.

463 |       The Department ~~of Transportation~~ shall recommend to the ~~Commonwealth~~  
464 | ~~Transportation~~ Board an annual rate per category to be computed using the base rate of growth  
465 | planned for the Department's Highway Maintenance and Operations program. The Board shall  
466 | establish the annual rates of such payments as part of its allocation for such purpose, and the  
467 | Department ~~of Transportation~~ shall use those rates to calculate and put into effect annual  
468 | changes in each qualifying city's or town's payment under this section.

469 |       The payments by the Department shall be paid in equal sums in each quarter of the fiscal  
470 | year, and payments shall not exceed the allocation of the Board.

471 |       The chief administrative officer of the city or town receiving this fund shall make annual  
472 | categorical reports of expenditures to the Department, in such form as the Board shall prescribe,  
473 | accounting for all expenditures, certifying that none of the money received has been expended  
474 | for other than maintenance, construction, or reconstruction of the streets, and reporting on their  
475 | performance as specified in subdivision ~~B-3 X~~ of § ~~33.1-23.02~~ 33.2-XXX. Such reports shall be

476 included in the scope of the annual audit of each municipality conducted by independent  
477 certified public accountants.

478 **Drafting note: Regulations for acceptance of subdivision streets into the secondary**  
479 **state highway system have been updated with more generic and up-to-date language from**  
480 **the Department of Transportation. Other changes are technical.**

481 § ~~33.1-42~~ 33.2-320. Incorporation into ~~State Highway System primary state highway~~  
482 ~~system~~ of connecting streets and ~~roads~~ highways in certain other ~~towns and~~ cities and towns;  
483 maintenance, etc., costs.

484 The ~~Commonwealth Transportation~~ Board may, by and with the consent of the Governor  
485 and the governing body of any ~~incorporated town or~~ city or town having a population of 3,500  
486 ~~inhabitants~~ or less, incorporate in the ~~State Highway System primary state highway system~~ such  
487 streets and ~~roads~~ highways or portions thereof in such ~~incorporated town or~~ city or town as may  
488 in its judgment be best for the handling of traffic through such ~~town or~~ city or town from or to  
489 any ~~road~~ highway in the ~~State Highway System primary state highway system~~ and may, ~~in its~~  
490 ~~discretion,~~ eliminate any of such ~~roads or~~ streets or highways or portions thereof from the ~~State~~  
491 ~~Highway System primary state highway system~~. Every such action of the ~~Commonwealth~~  
492 ~~Transportation~~ Board incorporating any such ~~road or~~ street or highway or portion thereof in the  
493 ~~State Highway System primary state highway system~~ or eliminating it therefrom, shall be  
494 recorded in its minutes.

495 Any such ~~road or~~ street or highway or portion thereof in any such city or town so  
496 incorporated in the ~~State Highway System primary state highway system~~ shall be subject to the  
497 rules, regulations, and control of the state ~~road~~ highway authorities as are other ~~roads~~ highways  
498 in the ~~State Highway System primary state highway system~~. But such city or town ~~or city~~ shall  
499 be obligated to pay the maintenance ~~and,~~ construction, and reconstruction costs of such ~~roads or~~  
500 streets or highways or portions thereof so incorporated in the ~~State Highway System primary~~  
501 ~~state highway system~~ in excess of the amounts authorized to be spent by the Commissioner of  
502 Highways on such ~~roads or~~ streets or highways.

503 Every provision in the charter of any such town or city insofar as it is in conflict with  
504 this section is hereby repealed.

505 The Commissioner of Highways may ~~in his discretion~~ permit such city or town ~~or city~~ to  
506 maintain any such ~~road or~~ street or highway, or portion thereof, incorporated in the ~~State~~  
507 ~~Highway System, primary state highway system~~ and may reimburse such city or town up to  
508 such amount as he is authorized to expend on the maintenance of such ~~road or~~ street or highway,  
509 or portion thereof.

510 **Drafting note: References to roads in this section refer to those already within the**  
511 **primary system and so are amended to be called highways. References to eliminating**  
512 **highways from the primary system refer only to highways, as they are already in the**  
513 **primary system. The penultimate paragraph is an unconstitutional "repeal by reference."**  
514 **Technical changes are also made.**

515 ~~§§ 33.1-43., 33.1-43.1.~~

516 **Drafting note: Repealed by Acts 1985, c. 42.**

517 ~~§ 33.1-46.3 33.2-321.~~ Agreements between Commonwealth Transportation Board and  
518 certain counties for operation of certain devices on state highways.

519 The Commissioner of Highways is empowered to enter into agreements with the  
520 governing bodies of Arlington and Henrico Counties, upon such terms as may be agreeable  
521 between the parties, in order to authorize such counties to install, maintain, and control traffic  
522 signals, parking meters, lane-use control signals, and other traffic control devices at specific  
523 locations on the ~~state primary or secondary state highway~~ systems ~~of highways~~ within such  
524 counties. Such counties and the Commissioner of Highways shall have the authority to do all  
525 things ~~which are~~ reasonable or convenient to effectuate the purposes of this section.

526 **Drafting note: Technical changes.**

527 ~~§ 33.1-46.4 33.2-322.~~ Counties may perform certain maintenance.

528 Any county may enter into an agreement with the Department ~~of Transportation~~ to  
529 permit the county to landscape and maintain any or all medians and other nontraveled portions  
530 of primary ~~roads~~ highways located in the county.

531 **Drafting note: Technical changes.**

532 § ~~33.1-47~~ 33.2-323. Approval of markings and traffic lights erected by towns.

533 Notwithstanding any provision of law contrary to this section, all markings and traffic  
534 lights installed or erected by towns on the primary ~~roads therein~~ highways maintained by the  
535 Department ~~of Transportation~~ shall first be approved by the Commissioner of Highways.

536 **Drafting note: Technical changes.**

537 Article ~~6~~ 3.

538 Secondary State Highway System ~~of State Highways~~.

539 **Drafting note: This existing Article 6 in Chapter 1 is retained as proposed Article 3**  
540 **of Chapter 3 and renamed to be consistent with terminology used throughout this title.**

541 § ~~33.1-67~~ 33.2-324. Secondary state highway system ~~of highways; composition~~.

542 The secondary state highway system ~~of state highways~~ shall consist of all of the public  
543 roads highways, causeways, bridges, landings, and wharves in the ~~several~~ counties of the  
544 Commonwealth not included in the ~~State Highway System~~ primary state highway system,  
545 including The secondary state highway system shall include such ~~roads highways~~ and  
546 community roads leading to and from public school buildings, streets, causeways, bridges,  
547 landings, and wharves in ~~incorporated~~ towns having a population of 3,500 ~~inhabitants~~ or less  
548 according to the United States census of 1920, and in all towns having such a population  
549 incorporated since 1920, ~~as that~~ constitute connecting links between ~~roads highways~~ in the  
550 secondary state highway system in the ~~several~~ counties and between ~~roads highways~~ in the  
551 secondary state highway system and ~~roads highways~~ in the primary state highway system ~~of the~~  
552 state highways, not, ~~however~~, to exceed two miles in any one town. If in any such town, ~~which~~  
553 that is partly surrounded by water, less than two miles of the ~~roads highways~~ and streets therein  
554 constitute parts of the secondary state highway system ~~of state highways~~, the ~~Commonwealth~~

555 ~~Transportation~~ Board shall, upon the adoption of a resolution by the ~~council or other~~ governing  
556 body of such town designating for inclusion in the secondary state highway system ~~of state~~  
557 highways certain ~~roads~~ highways and streets in such town not to exceed a distance of two miles,  
558 less the length of such ~~roads~~ highways and streets in such town ~~which that~~ constitute parts of the  
559 secondary state highway system ~~of state highways~~, accept and place in the secondary state  
560 highway system ~~of state highways~~ such additional ~~roads~~ highways and streets.

561 **Drafting note: Technical changes.**

562 § ~~33.1-68~~ 33.2-325. Certain school roads in secondary system.

563 All roads leading from the state highways, either primary or secondary, to public schools  
564 in the counties of the Commonwealth to which school buses are operated shall continue to  
565 constitute portions of the secondary state highway system ~~of state highways~~ insofar as these  
566 roads lead to or are on school property and as such shall be improved and maintained.

567 **Drafting note: Technical changes.**

568 § ~~33.1-69~~ 33.2-326. Control, supervision, and management of secondary state highway  
569 system components.

570 A. The control, supervision, management, and jurisdiction over the secondary state  
571 highway system ~~of state highways~~ shall be vested in the Department ~~of Transportation~~, and the  
572 maintenance and improvement, including construction and reconstruction, of such secondary  
573 state highway system ~~of state highways~~ shall be by the Commonwealth under the supervision of  
574 the Commissioner of Highways. The boards of supervisors or other governing bodies of the  
575 ~~several~~ counties ~~and the county road board or county road commission of any county operating~~  
576 ~~under a county road board or county road commission~~ shall have no control, supervision,  
577 management, ~~and or~~ jurisdiction over such public ~~roads~~ highways, causeways, bridges, landings,  
578 and wharves; constituting the secondary state highway system ~~of state highways~~. Except as  
579 otherwise provided in this article, the ~~Commonwealth Transportation~~ Board shall be vested with  
580 the same powers, control, and jurisdiction over the secondary state highway system ~~of state~~  
581 highways in the ~~several~~ counties and towns of the Commonwealth, and such additions as may

582 be made from time to time, as were vested in the boards of supervisors or other governing  
583 bodies of the ~~several counties or in the county road board or county road commission in any~~  
584 ~~county operating under a county road board or county road commission~~ on June 21, 1932, and  
585 in addition thereto shall be vested with the same power, authority, and control as to the  
586 secondary state highway system ~~of state highways~~ as is vested in the Board in connection with  
587 the ~~State Highway System~~ primary state highway system.

588 B. Nothing in this chapter shall be construed as requiring the Department, when  
589 undertaking improvements to any ~~state~~ secondary state highway system component or any  
590 portion of any such component, to fully reconstruct such component or portion thereof to bring  
591 it into compliance with all design and engineering standards that would be applicable to such  
592 component or portion thereof if the project involved new construction.

593 **Drafting note: Drafters were unable to find any still existing county road boards or**  
594 **county road commissions, so such references are stricken as obsolete. Technical changes**  
595 **are made.**

596 § ~~33.1-69.001~~ 33.2-327. Design standards for ~~state~~ secondary state highway system  
597 components.

598 For urban and urban development areas in ~~jurisdictions~~ localities using the urban county  
599 executive form of government, the ~~Virginia~~ Department ~~of Transportation~~ shall work in  
600 conjunction with the ~~jurisdiction~~ locality and the Department of Rail and Public Transportation  
601 to review new design standards for ~~state~~ secondary state highway system components that the  
602 ~~jurisdiction~~ locality proposes. Such standards shall (i) be based on the American Association of  
603 State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of  
604 Highways and Streets and other publications applicable to urban areas; (ii) set forth a design  
605 methodology that should be used in the affected urban and urban development areas; (iii) allow  
606 for the efficient movement of transit and other vehicles through these areas; (iv) accommodate  
607 safe pedestrian and bicyclist movement; (v) accommodate high density urban development; (vi)  
608 encourage user-friendly access to transit; (vii) include stormwater management guidelines,

609 consistent with state and local laws and regulations; and (viii) respect the character of urban  
610 areas. These design standards and methodologies are intended to facilitate approval of roadway  
611 and transportation system improvement plans in urban areas that comply with the standards.  
612 These design standards ~~should~~ shall not contradict or be in conflict with the principles outlined  
613 in the ~~Department's Secondary Street Acceptance Requirements~~ applicable state regulations  
614 concerning terms and conditions under which subdivision streets may be accepted into the  
615 secondary state highway system.

616 Standards developed by parties as required by this section shall be submitted to ~~VDOT~~  
617 the Department for final review and approval at least three months prior to the ~~jurisdiction's~~  
618 locality's anticipated implementation date.

619 **Drafting note: The references to "A Policy on Geometric Design of Highways and**  
620 **Streets" and "Department's Secondary Street Acceptance Requirements" are stricken and**  
621 **replaced with more general and up-to-date language from the Department of**  
622 **Transportation. Technical changes are made.**

623 § ~~33.1-69.01~~ 33.2-328. Department of Transportation to install and maintain certain  
624 signs.

625 Whenever so requested by the governing body of a county, the Department ~~of~~  
626 ~~Transportation~~ shall install a system of ~~street~~ highway name signs on state-maintained highways  
627 at such time and upon such terms and conditions as may be mutually agreed to between the  
628 county and the Commissioner of Highways.

629 The Department shall install, using state forces or contract, the initial signing system,  
630 and the county shall be responsible for continuing maintenance of the signs. Supply of the signs  
631 by the Department, either by manufacture or purchase, and initial installation shall be paid for  
632 from appropriate secondary construction funds allocated to the county or from primary  
633 construction funds available to the Department.

634 No highway funds shall be used by the county for the cost of maintaining the signing  
635 system.

636 **Drafting note: Technical changes.**

637 § ~~33.1-69.1~~ 33.2-329. Transfer of control, etc., of landings, docks, and wharves to  
638 Department of Game and Inland Fisheries.

639 A. Notwithstanding any other provision of law, the ~~Commonwealth Transportation~~  
640 Board may transfer the control, possession, supervision, management, and jurisdiction of  
641 landings, wharves, and docks in the secondary state highway system ~~of state highways~~ to the  
642 Department of Game and Inland Fisheries, at the request or with the concurrence of the  
643 Department of Game and Inland Fisheries. Such transfer may be by lease, agreement, or  
644 otherwise, approved by resolution of the Board, and signed by the Commissioner of Highways  
645 or his designee, for such period and upon such terms and conditions as the Board may direct.

646 B. All such transfers effected prior to ~~the enactment of this section~~ July 1, 1980, by  
647 lease, agreement, or otherwise, from the Department to the Department of Game and Inland  
648 Fisheries, and all regulations of the Department of Game and Inland Fisheries controlling the  
649 use of such facilities, shall be and are hereby declared valid in every respect.

650 **Drafting note: Technical changes, including adding the enactment date of this**  
651 **section for clarity.**

652 § ~~33.1-69.2~~ 33.2-330. Relocation or removal of utility facilities within secondary state  
653 highway system construction projects.

654 A. As used in this section:

655 "Cost of highway construction" includes the cost of relocating or removing utility  
656 facilities in connection with any project on the secondary state highway system.

657 "Cost of relocation or removal" includes the entire amount paid by such utility properly  
658 attributable to such relocation or removal after deducting therefrom any increase in the value of  
659 the new facility and any salvage value derived from the old facility.

660 "Facility of a utility" includes tracks, pipes, mains, conduits, cables, wires, towers, or  
661 other structures, equipment, and appliances.

662 "Utility" includes utilities owned by a county, city, town, public authority, or nonprofit,  
663 consumer-owned company located in a county having a population of at least 32,000 but no  
664 more than 34,000 that (i) is exempt from income taxation under § 501(c)(3) of the Internal  
665 Revenue Code, (ii) is organized to provide suitable drinking water, (iii) has no assistance from  
666 investors, (iv) does not pay dividends, and (v) does not sell stock to the general public.

667 B. Whenever it is necessary that ~~any tracks, pipes, mains, conduits, cables, wires, towers,~~  
668 ~~or other structures, equipment, and appliances (herein called facilities) of any utility as herein~~  
669 ~~defined~~ the facility of a utility, in, on, under, over, or along an existing highway that is to be  
670 included within any construction project on the secondary state highway system should be  
671 relocated or removed, the owner or operator of such ~~facilities~~ facility shall relocate or remove  
672 the same in accordance with the order of the Board. The cost of such relocation or removal, ~~as~~  
673 ~~herein defined~~, including the cost of installing such ~~facilities~~ facility in a new location ~~or~~  
674 ~~locations~~, and the cost of any lands, or any rights or interest in lands, and any other rights,  
675 required to accomplish such relocation or removal, shall be ascertained and paid by the Board as  
676 a part of the cost of such project.

677 ~~For the purposes of this section, "utility" includes utilities owned by a county, city, town,~~  
678 ~~public authority, or nonprofit, consumer-owned company, located in a county having a~~  
679 ~~population of at least 32,000 but no more than 34,000, that (i) is exempt from income taxation~~  
680 ~~under § 501(c)(3) of the Internal Revenue Code, (ii) is organized to provide suitable drinking~~  
681 ~~water, (iii) has no assistance from investors, (iv) does not pay dividends, and (v) does not sell~~  
682 ~~stock to the general public, and "cost of relocation or removal" includes the entire amount paid~~  
683 ~~by such utility properly attributable to such relocation or removal after deducting therefrom any~~  
684 ~~increase in the value of the new facility and any salvage value derived from the old facility.~~

685 ~~The cost of relocating or removing utility facilities in connection with any project on the~~  
686 ~~secondary highway system is hereby declared to be a cost of highway construction.~~

687           **Drafting note: Definitions referred to within this section are now included in a new**  
688 **definitions subsection for clarity. Plural references are removed pursuant to § 1-227.**

689 **Technical changes are made.**

690           ~~§ 33.1-70.~~

691           **Drafting note: Repealed by Acts 1977, c. 578.**

692           ~~§ 33.1-70.01 33.2-331.~~ Annual meeting with county officers; six-year plan for secondary  
693 state highways; certain reimbursements required.

694           For purposes of this section, "cancellation" means complete elimination of a highway  
695 construction or improvement project from the six-year plan.

696           The governing body of each county in the secondary state highway system may, jointly  
697 with the representatives of the Department ~~of Transportation~~ as designated by the Commissioner  
698 of Highways, prepare a six-year plan for the improvements to the secondary state highway  
699 system in that county. Each such six-year plan shall be based upon the best estimate of funds to  
700 be available to the county for expenditure in the six-year period on the secondary state highway  
701 system. Each such plan shall list the proposed improvements, together with an estimated cost of  
702 each project so listed. Following the preparation of the plan, the board of supervisors or other  
703 local governing body shall conduct a public hearing after publishing notice in a newspaper  
704 published in or having general circulation in the county once a week for two successive weeks,  
705 and posting notice of the proposed hearing at the front door of the courthouse of such county 10  
706 days before ~~such the~~ meeting. At the public hearings, which shall be conducted jointly by the  
707 board of supervisors and the representative of the Department ~~of Transportation~~, the entire six-  
708 year plan shall be discussed with the citizens of the county and their views considered.  
709 Following ~~such the~~ discussion, the local governing body, together with the representative of the  
710 Department ~~of Transportation~~, shall finalize and officially adopt the six-year plan, which shall  
711 then be considered the official plan of the county.

712           At least once in each calendar year, representatives of the Department ~~of Transportation~~  
713 in charge of the secondary state highway system ~~of highways~~ in each county, or some

714 representative of the Department designated by the Commissioner of Highways, shall meet with  
715 the governing body of each county in a regular or special meeting of ~~such the local~~ governing  
716 body for the purpose of preparing a budget for the expenditure of improvement funds for the  
717 next fiscal year. The representative of the Department ~~of Transportation~~ shall furnish the local  
718 governing body with an updated estimate of funds, and the board and the representative of the  
719 Department ~~of Transportation~~ shall jointly prepare the list of projects to be carried out in that  
720 fiscal year taken from the six-year plan by order of priority, and following generally the policies  
721 of the ~~Commonwealth Transportation~~ Board in regard to the statewide improvements to the  
722 secondary state highway system ~~improvements~~. Such list of priorities shall then be presented at  
723 a public hearing duly advertised in accordance with the procedure ~~hereinbefore~~ outlined in this  
724 section, and comments of citizens shall be obtained and considered. Following this public  
725 hearing, the board, with the concurrence of the representative of the Department ~~of~~  
726 ~~Transportation~~, shall adopt, as official, a priority program for the ensuing year, and the  
727 Department ~~of Transportation~~ shall include such listed projects in its secondary highways  
728 budget for the county for that year.

729 At least once every two years, following the adoption of the original six-year plan, the  
730 governing body of each county, together with the representative of the Department ~~of~~  
731 ~~Transportation~~, shall update the six-year plan of ~~such the~~ county by adding to it and extending it  
732 as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds  
733 for secondary highway purposes become available, the local governing body may request a  
734 revision in ~~such its~~ six-year plan in order that such plan be amended to provide for the  
735 expenditure of ~~such the~~ additional funds. Such additions and extensions to each six-year plan  
736 shall be prepared in the same manner and following the same procedures as outlined herein for  
737 its initial preparation. Where the local governing body and the representative of the Department  
738 ~~of Transportation~~ fail to agree upon a priority program, the local governing body may appeal to  
739 the Commissioner of Highways. The Commissioner of Highways shall consider all proposed  
740 priorities and render a decision establishing a priority program based upon a consideration by

741 the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall  
742 be binding.

743 Nothing in this section shall preclude a local governing body, with the concurrence of  
744 the representative of the Department ~~of Transportation~~, from combining the public hearing  
745 required for revision of a six-year plan with the public hearing required for review of the list of  
746 priorities, provided that notice of such combined hearing is published in accordance with  
747 procedures provided in this section.

748 All such six-year plans shall consider all existing highways in the secondary state  
749 highway system, including those in the towns located in the county that are maintained as a part  
750 of the ~~state~~ secondary state highway system, and shall be made a public document.

751 If any county cancels any highway construction or improvement project included in its  
752 six-year plan after the location and design for the project has been approved, such county shall  
753 reimburse the Department ~~of Transportation~~ the net amount of all funds expended by the  
754 Department ~~of Transportation~~ for planning, engineering, right-of-way acquisition, demolition,  
755 relocation, and construction between the date on which project development was initiated and  
756 the date of cancellation. To the extent that funds from secondary ~~road~~ highway allocations  
757 pursuant to § ~~33.1-23.4~~ 33.2-XXX have been expended to pay for a highway construction or  
758 improvement project, all revenues generated from a reimbursement by the county shall be  
759 deposited into that same county's secondary highway allocation. The Commissioner of  
760 Highways may waive all or any portion of such reimbursement at ~~its~~ his discretion.

761 The provisions of this section shall not apply in instances where less than 100 percent of  
762 the right-of-way is available for donation for unpaved ~~road~~ highway improvements.

763 ~~For purposes of this section, "cancellation" means complete elimination of a highway~~  
764 ~~construction or improvement project from the six-year plan.~~

765 **Drafting note: Technical changes.**

766 § ~~33.1-70.1~~ 33.2-332. Requesting Department of Transportation to hard-surface  
767 secondary ~~roads~~ highways; paving of certain secondary ~~roads~~ highways within existing rights-  
768 of-way; designation as Rural Rustic Road.

769 A. Whenever the governing body of any county, after consultation with personnel of the  
770 Department ~~of Transportation~~, adopts a resolution requesting the Department ~~of Transportation~~  
771 to hard-surface any secondary ~~road~~ highway in such county that carries 50 or more vehicles per  
772 day with a hard surface of width and strength adequate for such traffic volume, the Department  
773 ~~of Transportation~~ shall give consideration to such resolution in establishing priority in  
774 expending the funds allocated to such county. The Department shall consider the paving of  
775 ~~roads~~ highways with a right-of-way width of less than 40 feet under this subsection when land  
776 is, has been, or can be acquired by gift for the purpose of constructing a hard-surface ~~road~~  
777 highway.

778 B. Notwithstanding the provisions of subsection A ~~of this section~~, any unpaved  
779 secondary ~~road~~ highway that carries at least 50 but no more than 750 vehicles per day may be  
780 paved or improved and paved within its existing right-of-way or within a wider right-of-way  
781 that is less than 40 feet wide if the following conditions are met:

782 1. The governing body of the county in which the ~~road~~ highway is located has requested  
783 paving of such ~~road~~ highway as part of the six-year plan for the county under § ~~33.1-70.01~~ 33.2-  
784 XXX and transmitted that request to the Commissioner of Highways.

785 2. The Commissioner of Highways, after having considered only (i) the safety of such  
786 ~~road~~ highway in its current condition and in its paved or improved condition, including the  
787 desirability of reduced speed limits and installation of other warning signs or devices; (ii) the  
788 views of the residents and owners of property adjacent to or served by such ~~road~~; highway; (iii)  
789 the views of the local governing body making the request; (iv) the historical and aesthetic  
790 significance of such ~~road~~ highway and its surroundings; (v) the availability of any additional  
791 land that has been or may be acquired by gift or other means for the purpose of paving such ~~road~~  
792 highway within its existing right-of-way or within a wider right-of-way that is less than 40 feet

793 wide; and (vi) environmental considerations, shall grant or deny the request for the paving of  
794 such ~~road~~ highway under this subsection.

795 C. Notwithstanding the provisions of subsections A and B, the governing body of any  
796 county, in consultation with the Department, may designate a ~~road~~ highway or ~~road~~ highway  
797 segment as a Rural Rustic Road, provided such ~~road~~ highway or ~~road~~ highway segment is  
798 located in a low-density development area and has an average daily traffic volume of no more  
799 than 1,500 vehicles per day. For a ~~road~~ highway or ~~road~~ highway segment so designated,  
800 improvements shall utilize a paved surface width based on reduced and flexible standards that  
801 leave trees, vegetation, side slopes, and open drainage abutting the ~~roadway~~ highway  
802 undisturbed to the maximum extent possible without compromising public safety. Any ~~road~~  
803 highway designated as a Rural Rustic Road shall be subject to § 62.1-44.15:34. The  
804 Department, in consultation with the affected local governing body, shall first consider the  
805 paving of a ~~road~~ highway or ~~road~~ highway segment meeting the criteria for a Rural Rustic Road  
806 in accordance with this subsection before making a decision to pave it to another standard as set  
807 forth in this section. ~~The provisions of this subsection shall become effective July 1, 2003.~~

808 D. The Commonwealth, ~~and~~ its agencies, instrumentalities, departments, officers, and  
809 employees acting within the scope of their duties and authority shall be immune for damages by  
810 reason of actions taken in conformity with the provisions of this section. Immunity for the local  
811 governing body of any political subdivision requesting paving under this section and the officers  
812 and employees of any such political subdivision shall be limited to that immunity provided  
813 pursuant to § 15.2-1405.

814 **Drafting note: Existing § 33.1-70.1 was amended by Chapters 756 and 793 of the**  
815 **2013 Acts of Assembly and those changes are reflected in the existing language here. The**  
816 **effective date for subsection C has been stricken because the section is now effective and**  
817 **the language is unnecessary. Technical changes are made.**

818 § ~~33.1-70.2~~ 33.2-333. Emergency paving of unpaved secondary ~~roads~~ highways; notice  
819 and public hearing required.

820 In the event of an emergency, ~~no an~~ unpaved ~~road highway~~ within the secondary state  
821 highway system ~~of highways~~ shall be paved ~~unless only if~~ the following procedures are  
822 satisfied:

823 1. The Commissioner of Highways shall consider the following factors in determining  
824 whether the unpaved secondary state highway, as the result of an emergency, shall be paved: (i)  
825 the safety of the secondary state highway in its current condition; (ii) the feasibility of restoring  
826 the unpaved highway to its functional level prior to the emergency; (iii) the concerns of the  
827 citizens in the locality wherein the affected highway is located, particularly those persons who  
828 own land adjacent to such highway; (iv) the concerns of the governing body of the locality  
829 affected; and (v) the historical and aesthetic significance of the unpaved secondary state  
830 highway and its surroundings.

831 ~~1-2.~~ The Commissioner of Highways shall provide notice of ~~such the~~ intended paving to  
832 the governing body of the ~~jurisdiction wherein~~ locality where the affected highway or portion  
833 thereof is located. The Commissioner shall provide such notice following his decision to pave  
834 the unpaved secondary ~~road highway~~ within the ~~jurisdiction~~ locality affected.

835 ~~2-3.~~ The local governing body's concurrence or other recommendation regarding the  
836 proposed paving shall be forwarded to the Commissioner of Highways within 72 hours  
837 following the receipt of the Commissioner's notice.

838 ~~3. The Commissioner shall consider the following factors in determining whether the~~  
839 ~~unpaved secondary road, as the result of an emergency, shall be paved: (i) the safety of the~~  
840 ~~secondary highway in its current condition; (ii) the feasibility of restoring the unpaved highway~~  
841 ~~to its functional level prior to the emergency; (iii) the concerns of the citizens in the jurisdiction~~  
842 ~~wherein the affected highway is located, particularly those persons who own land adjacent to~~  
843 ~~such highway; (iv) the concerns of the local governing body of the jurisdiction affected; and (v)~~  
844 ~~the historical and aesthetic significance of the unpaved secondary highway and its surroundings.~~

845 **Drafting note: Existing subsection 3 is relocated as subsection 1 for a more logical**  
846 **ordering. Technical changes are made.**

847 § ~~33.1-70.3~~ 33.2-334. Requirements for taking new streets into ~~state~~ secondary state  
848 highway system.

849 A. The ~~local~~ governing body of any county that has not withdrawn from the ~~state~~  
850 secondary state highway system or any town within which the ~~Virginia~~ Department ~~of~~  
851 ~~Transportation~~ maintains the streets, may, by resolution, request the ~~Commonwealth~~  
852 ~~Transportation~~ Board to take any new street or highway into the secondary state highway  
853 system ~~of state highways~~ for maintenance if such street or highway has been developed and  
854 constructed in accordance with the Board's secondary street acceptance requirements. ~~Only~~  
855 ~~those streets constructed in compliance with the secondary street acceptance requirements shall~~  
856 ~~be taken into the state secondary highway system for maintenance.~~ The Board shall ~~promulgate~~  
857 adopt regulations establishing such secondary street acceptance requirements. ~~The secondary~~  
858 ~~street acceptance requirements established pursuant to this section, which~~ shall include such  
859 provisions as the Board deems necessary or appropriate to achieve the safe and efficient  
860 operation of the Commonwealth's transportation network.

861 B. In addition to such other provisions deemed necessary or appropriate by the Board,  
862 the regulations shall include, ~~but not be limited to~~ (i) requirements to ensure the connectivity of  
863 road highway and pedestrian networks with the existing and future transportation network; (ii)  
864 provisions to minimize stormwater runoff and impervious surface area, and (iii) provisions for  
865 performance bonding of new secondary ~~streets~~ highways and associated cost recovery fees.

866 C. No initial regulation establishing secondary street acceptance requirements pursuant  
867 to this section shall apply to subdivision plats and subdivision construction plans that have been  
868 submitted and accepted for review by the ~~Virginia~~ Department ~~of Transportation~~ on or before  
869 the effective date of such initial regulations. No locality shall be obligated to approve any  
870 subdivision plat or subdivision construction plans that are inconsistent with these regulations.

871 ~~D. Furthermore, nothing~~ C. Nothing in this section or in any regulation, policy, or  
872 practice adopted pursuant to this section shall prevent the acceptance of any street or segment of  
873 a street within a network addition that meets one or more of the public service requirements

874 addressed in the regulations, provided that the network addition satisfies all other requirements  
875 adopted pursuant to this section. In cases where a majority of the lots along the street or street  
876 segment remain undeveloped and construction traffic is expected to utilize that street or street  
877 segment after acceptance, the bonding requirement for such street or street segment may be  
878 required by the Department to be extended for up to one year beyond that required in the  
879 secondary street acceptance requirements.

880 **Drafting note: Technical changes are made, including in subsection A changing the**  
881 **term "promulgate regulations" to "adopt regulations" in keeping with recent title**  
882 **revisions because "adopt" is more widely used and includes the promulgation process and**  
883 **in subsection B removing the phrase "but not be limited to" based on § 1-218, which**  
884 **states: "'Includes' means includes, but not limited to." Some references to the secondary**  
885 **street acceptance requirements are replaced with more generic and up-to-date language**  
886 **from the Department of Transportation. Technical changes are made.**

887 ~~§ 33.1-71.~~

888 **Drafting note: Repealed by Acts 1992, c. 94.**

889 ~~§ 33.1-72.~~

890 **Drafting note: Repealed by Acts 1979, c. 321.**

891 ~~§ 33.1-72.1~~ 33.2-335. Taking certain streets into secondary state highway system.

892 A. ~~"Street," as used in~~ For the purposes of this section, ~~means a street or highway shown~~  
893 ~~on a plat which was recorded or otherwise opened to public use prior to July 1, 1992, at which~~  
894 ~~time it was open to and used by motor vehicles, and which, for any reason, has not been taken~~  
895 ~~into the secondary system of state highways and serves at least three families per mile.;~~

896 B. ~~"County," as used in this section,~~ means a county in which the secondary state  
897 highway system ~~of the state highways~~ is constructed and maintained by the Department ~~of~~  
898 Transportation and ~~which that~~ has adopted a local ordinance for control of the development of  
899 subdivision streets to the necessary standards for acceptance into the secondary state highway  
900 system.

901 "Qualifying rural addition cost" means that portion of the estimated engineering and  
902 construction cost to improve the street to the minimum standards for acceptance remaining after  
903 reducing the total estimated cost by any prorated amount deemed the responsibility of others  
904 based on speculative interests as defined in this subsection.

905 "Rural addition funds" means those funds reserved from the county's annual allocation  
906 of secondary state highway system construction funds, as defined in § 33.2-XXX, for the  
907 purpose of this section. If such funds are not used by such county for such purpose during the  
908 fiscal year they are so allocated, the funds may be held for such purpose for the four succeeding  
909 fiscal years. A maximum of five percent of the annual secondary state system highway  
910 construction allocation may be reserved by the local governing body for rural additions.

911 ~~C. "Speculative interest," as used in this section,~~ means that the original developer or a  
912 successor developer retains ownership in any lot abutting such street for development or  
913 speculative purposes. In instances where it is determined that speculative interest is retained by  
914 the original developer, developers, or successor developers and the governing body of the  
915 county deems that extenuating circumstances exist, the governing body of the county shall  
916 require a pro rata participation by such original developer, developers, or successor developers  
917 as prescribed in subsection ~~G of this section~~ D as a condition of the county's recommendation  
918 pursuant to this section.

919 ~~D. "Qualifying rural addition cost," as used in this section, means that portion of the~~  
920 ~~estimated engineering and construction cost to improve the street to the minimum standards for~~  
921 ~~acceptance remaining after reducing the total estimated cost by any prorated amount deemed the~~  
922 ~~responsibility of others based on speculative interests as defined in subsection C.~~

923 "Street" means a street or highway shown on a plat that was recorded or otherwise  
924 opened to public use prior to July 1, 1992, at which time it was open to and used by motor  
925 vehicles, and that, for any reason, has not been taken into the secondary state highway system  
926 and serves at least three families per mile.

927 ~~E.-B.~~ Whenever the governing body of a county recommends in writing to the  
928 Department ~~of Transportation~~ that any street in the county be taken into and become a part of  
929 the secondary state highway system ~~of the state highways~~ in such county, the Department ~~of~~  
930 ~~Transportation~~ thereupon, within the limit of available funds and the mileage available in such  
931 county for the inclusion of ~~roads~~ highways and streets in the secondary state highway system,  
932 shall take such street into the secondary state highway system ~~of state highways~~ for  
933 maintenance, improvement, construction, and reconstruction if such street, at the time of such  
934 recommendation, ~~either:~~ (i) has a minimum dedicated width of 40 feet or (ii) in the event of  
935 extenuating circumstances as determined by the Commissioner of Highways, ~~such street~~ has a  
936 minimum dedicated width of 30 feet ~~at the time of such recommendation~~. In either case, such  
937 streets must have easements appurtenant thereto ~~which that~~ conform to the policy of the  
938 ~~Commonwealth Transportation~~ Board with respect to drainage. After the streets are taken into  
939 the secondary state highway system ~~of state highways~~, the Department shall maintain the same  
940 in the manner provided by law. However, no such street shall be taken into and become a part of  
941 the secondary state highway system ~~of state highways~~ unless and until any and all required  
942 permits have been obtained and any outstanding fees, charges, or other financial obligations of  
943 ~~whatsoever whatever~~ nature have been satisfied or provision has been made, whether by the  
944 posting of a bond or otherwise, for their satisfaction.

945 ~~F.-C.~~ Such street shall only be taken into the secondary state highway system ~~of state~~  
946 ~~highways~~ if the governing body of the county has identified and made available the funds  
947 required to improve the street to the required minimum standards. The county may consider the  
948 following options to fund the required improvements for streets accepted under this section:

949 1. The ~~local~~ governing body of the county may use a portion of the county's annual  
950 secondary state highway system construction allocation designated as "rural addition funds" to  
951 fund the qualifying rural addition costs for qualifying streets if the county agrees to contribute  
952 from county revenue or the special assessment of the landowners on the street in question one-  
953 half of the qualifying rural addition cost to bring the streets up to the necessary minimum

954 standards for acceptance. No such special assessment of landowners on such streets shall be  
955 made unless the governing body of the county receives written declarations from the owners of  
956 75 percent or more of the platted parcels of land abutting upon such streets stating their  
957 acquiescence in such assessments. The basis for such special assessments, at the option of the  
958 local governing body, shall be either (i) the proportion the value of each abutting parcel bears to  
959 the total value of all abutting parcels on such street as determined by the current evaluation of  
960 the property for real estate tax purposes, ~~or~~ (ii) the proportion the abutting road front footage of  
961 each parcel abutting the street bears to the total abutting road front footage of all parcels  
962 abutting on the street, or (iii) an equal amount for each parcel abutting on such street. No such  
963 special assessment on any parcel shall exceed one-third of the current ~~evaluation~~ valuation of  
964 such property for real estate tax purposes. Special assessments under this section shall be  
965 conducted in the manner provided in Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2,  
966 mutatis mutandis, for assessments for local improvements.

967         2. The ~~local~~ governing body of any county may use a portion of its annual secondary  
968 state highway system construction allocation designated as "rural addition funds" to fund the  
969 qualifying rural addition cost for qualifying streets within the limitation of funds and the  
970 mileage limitation of the ~~Commonwealth Transportation~~ Board's policy on rural additions.

971         3. The ~~local~~ governing body of any county may use revenues derived from the sale of  
972 bonds to finance the construction of rural additions to the secondary state highway system of  
973 such county. In addition, from the funds allocated by the Commonwealth for the construction of  
974 secondary ~~road~~ state highway improvements, such local governing body may use funds  
975 allocated within the ~~Commonwealth Transportation~~ Board policy for the construction of rural  
976 additions to pay principal and interest on bonds associated with rural additions in such county,  
977 provided the revenue derived from the sale of such bonds is not used as the county matching  
978 contribution under § ~~33.1-23.05~~ 33.2-XXX. The provisions of this section shall not constitute a  
979 debt or obligation of the ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of~~  
980 Virginia.

981 4. The ~~local~~ governing body of the county may expend general county revenue for the  
982 purposes of this section.

983 5. The ~~local~~ governing body of the county may permit one or more of the landowners on  
984 the street in question to pay to the county a sum equal to one-half of the qualifying rural  
985 addition cost to bring the street up to the necessary minimum standards for acceptance into the  
986 secondary state highway system ~~of state highways~~, which funds the county shall then utilize for  
987 such purpose. Thereafter, upon collection of the special assessment of landowners on such  
988 street, the county shall use such special assessment funds to reimburse, without interest, the one  
989 or more landowners for those funds ~~which that~~ they previously advanced to the ~~count~~ county to  
990 bring the street up to the necessary minimum standards for acceptance.

991 6. The ~~local~~ governing body of the county may utilize the allocations made to the county  
992 in accordance with § ~~33.1-23.05~~ 33.2-XXX.

993 ~~G.-D.~~ In instances where it is determined that speculative interest, ~~as defined in~~  
994 ~~subsection C~~ exists, the basis for the pro rata percentage required of such developer, developers,  
995 or successor developers shall be the proportion that the value of the abutting parcels owned or  
996 partly owned by the developer, developers, or successor developers bears to the total value of all  
997 abutting property as determined by the current ~~evaluation~~ valuation of the property for real  
998 estate purposes. The pro rata percentage shall be applied to the ~~Department of Transportation's~~  
999 Department's total estimated cost to construct such street to the necessary minimum standards  
1000 for acceptance to determine the amount of costs to be borne by the developer, developers, or  
1001 successor developers. Property so ~~evaluated~~ valuated shall not be assessed in the special  
1002 assessment for the determination of the individual pro rata share attributable to other properties.  
1003 Further, when such pro rata participation is accepted by the governing body of the county from  
1004 such original developer, developers, or successor developers, such amount shall be deducted  
1005 from the ~~Department of Transportation's~~ Department's total estimated cost, and the remainder of  
1006 such estimated cost, the qualifying rural addition cost, shall then be the basis of determining the  
1007 assessment under the special assessment provision or determining the amount to be provided by

1008 the county when funded from general county revenue under the definition of speculative interest  
1009 in subsection C of this section A or determining the amount to be funded as a rural addition  
1010 under the definition of qualifying rural addition cost in subsection D of this section A.

1011 ~~H. E.~~ Acceptance of any street into the secondary state highway system ~~of state~~  
1012 ~~highways~~ for maintenance, improvement, construction, and reconstruction shall not impose any  
1013 obligation on the Board to acquire any additional right-of-way or easements should they be  
1014 necessary by virtue of faulty construction or design.

1015 ~~I. "Rural addition funds" means those funds reserved from the county's annual allocation~~  
1016 ~~of secondary system highway construction funds, as defined in § 33.1-67, for the purpose of this~~  
1017 ~~section. If such funds are not used by such county for such purpose during the fiscal year they~~  
1018 ~~are so allocated, the funds may be held for such purpose for the four succeeding fiscal years. A~~  
1019 ~~maximum of five percent of the annual secondary system highway construction allocation may~~  
1020 ~~be reserved by the governing body for rural additions.~~

1021 **Drafting note: Definitions are changed to conform to current Code standards,**  
1022 **including alphabetizing them within one subsection. References to the word "street" are**  
1023 **retained because it is a defined term in this section. Technical changes are made.**

1024 § ~~33.1-72.2~~ 33.2-336. Funds allocated to counties for Rural Addition Program; street  
1025 standards.

1026 A. Notwithstanding any other provision of law, the ~~Commonwealth Transportation~~  
1027 Board and the Commissioner of Highways shall not diminish funds allocated or allocable to any  
1028 county for use under the Rural Addition Program by reason of any county ordinance authorizing  
1029 the use of private roads not built to standards set by the Department ~~of Transportation~~ or  
1030 construction of ~~subdivisions~~ subdivision streets built to standards other than those established by  
1031 the Department.

1032 B. In those counties where this section is applicable, the ordinance shall also state that  
1033 any and all streets that are not constructed to meet the standards necessary for inclusion in the  
1034 ~~system~~ systems of state highways ~~will~~ shall be privately maintained and ~~will~~ shall not be eligible

1035 for acceptance into the ~~system~~ systems of state highways unless improved to current Department  
1036 ~~of Transportation~~ standards with funds other than those appropriated by the General Assembly  
1037 and allocated by the ~~Commonwealth Transportation~~ Board. For any street that is not constructed  
1038 to Department ~~of Transportation~~ standards, the subdivision plat and all approved deeds of  
1039 subdivision, or similar instruments, shall contain a statement advertising that the streets in the  
1040 subdivision do not meet the standards necessary for inclusion in the ~~system~~ systems of state  
1041 highways and will not be maintained by the Department ~~of Transportation~~ or the county  
1042 approving the subdivision and are not eligible for rural addition funds, as defined by § 33.2-  
1043 xxx[previous section 33.1-72.1] or any other funds appropriated by the General Assembly and  
1044 allocated by the ~~Commonwealth Transportation~~ Board.

1045 **Drafting note: Technical changes.**

1046 ~~§§ 33.1-73. through 33.1-75.1.~~

1047 **Drafting note: Repealed by Acts 1977, c. 578.**

1048 ~~§ 33.1-75.1.~~

1049 **Drafting note: Repealed by Acts 2006, c. 827, cl. 2.**

1050 ~~§ 33.1-75.2 33.2-337.~~ Contributions to primary or secondary ~~road~~ state highway  
1051 construction by counties.

1052 Notwithstanding any other provision of law, any county having ~~roads~~ highways in the  
1053 primary or secondary state highway system ~~of state highways~~ may contribute funds annually for  
1054 the construction of primary or secondary ~~roads~~ highways. The funds contributed by such county  
1055 shall be appropriated from the county's general revenues for use by the Department ~~of~~  
1056 ~~Transportation~~ on the primary or secondary state highway system within such county as may be  
1057 determined by the board of supervisors of such county in cooperation with the Department. The  
1058 funds to which any county may be entitled under the provisions of §§ ~~33.1-23.1 33.2-XXX,~~  
1059 ~~33.1-23.2 33.2-XXX,~~ and ~~33.1-23.4 33.2-XXX~~ for construction, improvement, or maintenance  
1060 of primary or secondary ~~roads~~ highways shall not be diminished by reason of any funds

1061 contributed for that purpose by such county or by any person or entity, regardless of whether  
1062 such contributions are matched by state or federal funds.

1063 **Drafting note: Technical changes.**

1064 § ~~33.1-75.3~~ 33.2-338. Construction and improvement of primary or secondary highways  
1065 by counties.

1066 A. Notwithstanding any other provisions of this article, the governing body of any  
1067 county may expend general revenues or revenues derived from the sale of bonds for the purpose  
1068 of constructing or improving highways, including curbs, gutters, drainageways, sound barriers,  
1069 sidewalks, and all other features or appurtenances conducive to the public safety and  
1070 convenience, ~~which that~~ either have been or may be taken into the primary or secondary state  
1071 highway system ~~of state highways~~. Project planning and the acquisition of rights-of-way shall  
1072 be under the control and at the direction of the county, subject to the approval of project plans  
1073 and specifications by the Department ~~of Transportation~~. All costs incurred by the Department ~~of~~  
1074 ~~Transportation~~ in administering such contracts shall be reimbursed from the county's general  
1075 revenues or from revenues derived from the sale of bonds or such costs may be charged against  
1076 the funds ~~which that~~ the county may be entitled to under the provisions of § ~~33.1-23.1~~ 33.2-  
1077 XXX, ~~33.1-23.2~~ 33.2-XXX, or ~~33.1-23.4~~ 33.2-XXX.

1078 B. Projects undertaken under the authority of subsection A ~~of this section~~ shall not  
1079 diminish the funds to which a county may be entitled under the provisions of § ~~33.1-23.1~~ 33.2-  
1080 XXX, ~~33.1-23.2~~ 33.2-XXX, ~~33.1-23.4~~ 33.2-XXX, or ~~33.1-23.05~~ 33.2-XXX.

1081 C. At the request of the county, the Department ~~of Transportation~~ may agree to  
1082 undertake the design, right-of-way acquisition, or construction of projects funded by the county.  
1083 In such situations, the Department ~~of Transportation~~ and the county ~~will~~ shall enter into an  
1084 agreement specifying all relevant procedures and responsibilities concerning the design, right-  
1085 of-way acquisition, construction, or contract administration of projects to be funded by the  
1086 county. The county ~~will~~ shall reimburse the Department ~~of Transportation~~ for all costs incurred

1087 by the Department in carrying out the aforesaid activities from general revenues or revenues  
1088 derived from the sale of bonds.

1089 D. Notwithstanding any contrary provision of law, any county may undertake activities  
1090 ~~towards~~ toward the design, land acquisition, or construction of primary or secondary state  
1091 highway projects that have been included in the six-year plan pursuant to § ~~33.1-70.01~~ 33.2-  
1092 XXX, or in the case of a primary state highway, an approved project included in the six-year  
1093 improvement program of the ~~Commonwealth Transportation~~ Board. In such situations, the  
1094 Department ~~of Transportation~~ and the county shall enter into an agreement specifying all  
1095 relevant procedures and responsibilities concerning the design, right-of-way acquisition,  
1096 construction, or contract administration of projects to be funded by the Department. Such  
1097 activities shall be undertaken with the prior concurrence of the Department ~~of Transportation~~,  
1098 and the Department shall reimburse the county for expenses incurred in carrying out these  
1099 activities. Such reimbursement shall be derived from primary or secondary highway funds  
1100 ~~which~~ that the county may be entitled to under the provisions of this chapter. The county may  
1101 undertake these activities in accordance with all applicable county procedures, provided the  
1102 Commissioner of Highways finds that those county procedures are substantially similar to  
1103 departmental procedures and specifications.

1104 E. If funding for the construction of a primary or interstate project is scheduled in the  
1105 ~~Commonwealth Transportation~~ Board's Six-Year Improvement Program as defined in § ~~33.1-12~~  
1106 33.2-XXX, a locality may choose to advance funds to the project. If such advance is offered, the  
1107 Board may consider such request and agree to such advancement and the subsequent  
1108 reimbursement of the locality of the advance in accordance with terms agreed upon by the  
1109 Board or its designee and the locality.

1110 F. Any county carrying out any construction project as authorized in this section may, in  
1111 so doing, exercise the powers granted the Commissioner of Highways under Article ~~7~~ 1 (§ ~~33.1-~~  
1112 89 33.2-XXX et seq.) of ~~this chapter~~ Chapter XXX to enter property for the purpose of making

1113 an examination and survey thereof, with a view to ascertainment of its suitability for highway  
1114 purposes and any other purpose incidental thereto.

1115 G. For the purposes of this section, any county without an existing franchise agreement,  
1116 when administering a Department-sanctioned project under a land-use permit or transportation  
1117 project agreement, shall have the same authority as the Department pertaining to the relocation  
1118 of utilities.

1119 H. Whenever so requested by any county, funding of any project undertaken as provided  
1120 in this section may be supplemented solely by state funds in order to avoid the necessity of  
1121 complying with additional federal requirements, provided a determination has been made by the  
1122 Department that (i) adequate state funds are available to fully match available federal  
1123 transportation funds and (ii) the Department can meet its federal obligation authority, as  
1124 permitted by federal law.

1125 **Drafting note: Technical changes.**

1126 ~~§§ 33.1-76 through 33.1-78.1.~~

1127 **Drafting note: Repealed by Acts 1977, c. 578.**

1128 ~~§ 33.1-79 33.2-339.~~ Maintenance, etc., of streets and ~~roads~~ highways in certain towns  
1129 from secondary funds.

1130 The Commissioner of Highways ~~of Virginia is hereby authorized and empowered may,~~  
1131 subject to the approval of the ~~Commonwealth Transportation~~ Board, upon request of the  
1132 governing bodies of ~~incorporated~~ towns with a population of less than 3,500 ~~inhabitants,~~  
1133 according to the last United States census, ~~to~~ select certain streets and ~~roads~~ highways in such  
1134 towns for maintenance, improvement, construction, and reconstruction from allocations  
1135 available from secondary highway funds not to exceed ~~2 two~~ miles of streets or ~~roads~~ highways  
1136 in such ~~incorporated~~ towns included in the secondary state highway system ~~of highways,~~  
1137 whether such ~~2 two~~ miles of streets or ~~roads~~ highways constitute connecting links between ~~roads~~  
1138 highways in the secondary state highway system in the ~~several~~ counties, or between ~~roads~~

1139 highways in the secondary state highway system and ~~roads~~ highways in the primary state  
1140 highway system, ~~of the state highways~~ or not.

1141 The ~~said~~ Commissioner ~~is hereby authorized and empowered of Highways~~, with the  
1142 approval of the ~~Commonwealth Transportation~~ Board, in addition to the said two miles ~~to~~ may  
1143 increase the mileage of streets and ~~roads~~ highways in such ~~incorporated~~ towns annually, not to  
1144 exceed, ~~however~~, in any one year one-fourth mile, exclusive of any mileage transferred from the  
1145 primary state highway system under the provisions of § ~~33.1-35, 33.2-XXX~~ or any mileage  
1146 maintained by the Department ~~of Transportation~~ prior to its annexation by such ~~incorporated~~  
1147 town.

1148 **Drafting note: Technical changes.**

1149 ~~§§ 33.1-80., 33.1-81.~~

1150 **Drafting note: Repealed by Acts 1985, c. 42.**

1151 § ~~33.1-82, 33.2-340~~. Maintenance, etc., by Commissioner of Highways when no request  
1152 for allocation.

1153 If no request is made to the ~~Commonwealth Transportation~~ Board ~~of Virginia~~ by the  
1154 governing body of any ~~such~~ town as provided in § ~~33.1-79, 33.2-XXX~~, the Commissioner of  
1155 Highways, subject to the approval of the ~~Commonwealth Transportation~~ Board, may maintain,  
1156 improve, construct, and reconstruct all streets in such ~~incorporated~~ town that (i) have an  
1157 unrestricted right-of-way width of not less than ~~thirty~~ 30 feet and a ~~hard surface~~ hard surface  
1158 width of not less than ~~twelve~~ 12 feet; (ii) were established after July 1, 1950, by such town and  
1159 have a right-of-way width of not less than ~~fifty~~ 50 feet and a ~~hard surface~~ hard surface width of  
1160 not less than ~~twenty~~ 20 feet; or (iii) are functionally classified as local streets and were  
1161 constructed on or after January 1, 1996, and, at the time of approval by the town, met the criteria  
1162 for pavement width and right-of-way of the then-current edition ~~of the subdivision street~~  
1163 ~~requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-~~  
1164 ~~10 et seq.) design standards for subdivision streets.~~

1165           **Drafting note: A reference to the requirements manual for secondary roads in the**  
1166 **Virginia Administrative Code is stricken and replaced with more generic and up-to-date**  
1167 **language from the Department of Transportation. Technical changes are made.**

1168           ~~§ 33.1-83.~~

1169           **Drafting note: Repealed by Acts 1985, c. 42.**

1170           ~~§ 33.1-84, 33.2-341.~~ Maps of secondary state highway system.

1171           The Commissioner of Highways shall prepare and keep on file in his office for public  
1172 inspection a complete map for each county showing the route of the secondary state highway  
1173 system ~~of state highways~~.

1174           **Drafting note: Technical changes.**

1175           ~~§ 33.1-84.1, 33.2-342.~~ Resumption of responsibility for secondary state highways by  
1176 counties.

1177           Notwithstanding any provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932  
1178 and §§ ~~33.1-84, 33.1-85, 33.1-87, 33.2-XXX~~ and ~~33.1-88, 33.2-XXX~~, the Commissioner of  
1179 Highways, following receipt of a resolution adopted by the ~~Board of Supervisors~~ board of  
1180 supervisors of a county requesting such action, may enter into an agreement with any county  
1181 that desires to resume responsibility over all or any portion of the ~~state~~ secondary state highway  
1182 system ~~of highways~~ within such county's boundaries for the purposes of planning, constructing,  
1183 maintaining, and operating such highways. Such agreement shall specify the equipment,  
1184 facilities, personnel, and funding that will be provided to the county in order to implement such  
1185 agreement's provisions.

1186           Any county that resumes full responsibility for all of the ~~state~~ secondary state highway  
1187 system ~~of highways~~ within such county's boundaries (i) shall have authority and control over the  
1188 secondary state highway system ~~of highways~~ within its boundaries, (ii) shall be deemed to have  
1189 withdrawn from the ~~state~~ secondary state highway system ~~of highways~~, and (iii) ~~will~~ shall  
1190 receive payments in accordance with § ~~33.1-23.5:1, 33.2-XXX~~. The resolution requesting  
1191 resumption of all responsibilities shall also include a request for the transfer and release of all

1192 rights-of-way and rights of access along the ~~state~~ secondary state highway system ~~of highways~~  
1193 within the county's boundaries.

1194 **Drafting note: Technical changes.**

1195 § ~~33.1-85~~ 33.2-343. Return after withdrawal from secondary state highway system.

1196 Any county ~~which that~~ has withdrawn its roads from the secondary state highway system  
1197 ~~of state highways~~ under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932,  
1198 ~~approved March 31, 1932~~, shall have the right at any time to bring itself back within such  
1199 secondary state highway system ~~of state highways~~, provided the ~~same shall be~~ decision is  
1200 approved by a majority of the qualified voters of such county voting in an election called for  
1201 that purpose, as ~~hereafter~~ provided in this article.

1202 **Drafting note: Technical changes.**

1203 § ~~33.1-86~~ 33.2-344. Election to determine return to the secondary state highway system.

1204 ~~The~~ Upon the petition of qualified voters of any county that proposes to return its roads  
1205 to the secondary state highway system equal in number to at least 20 percent of the number  
1206 counted in such county for presidential electors at the last preceding presidential election or 250,  
1207 whichever is more, the circuit court of ~~any~~ such county, ~~or the judge thereof in vacation~~, shall,  
1208 ~~upon the petition of qualified voters of the county equal in number to at least twenty per centum~~  
1209 ~~of the number counted in such county for presidential electors at the last preceding presidential~~  
1210 ~~election, but in no event less than 250~~, make an order requiring the judges of election, on such  
1211 day as may be fixed in the order, but not less than 30 days after the date of ~~entry thereof~~ the  
1212 order, to open a poll and take the sense of the qualified voters of the county on the question of  
1213 whether or not such county shall ~~come back within such~~ return to the secondary state highway  
1214 system ~~of state highways~~. The qualifications of voters at each such election shall be as provided  
1215 by §§ 24.2-400 through 24.2-403.

1216 ~~The form of ballot for use in any such election shall be~~ The ballots for use at any such  
1217 election shall be printed to state the question as follows:

1218 "Shall . . . . . county (the name of such county to be inserted) ~~come back~~  
 1219 ~~within return to~~ the secondary state highway system ~~of state highways~~ for maintenance and  
 1220 construction by the State Commonwealth?

1221  Yes

1222  No"

1223 ~~Each qualified voter, who shall approve the coming back within the secondary system of~~  
 1224 ~~state highways shall express such approval by striking out the word "No," and each voter who~~  
 1225 ~~shall disapprove the same shall express his disapproval by striking out the word "Yes." The~~  
 1226 ~~ballots shall be printed, marked, and counted and returns made and canvassed as in other~~  
 1227 ~~elections and as provided in § 24.2-684. The results shall be certified by the secretary of the~~  
 1228 ~~appropriate electoral board to the State Board of Elections, to the court ordering the election,~~  
 1229 ~~and to such other authority as may be proper to accomplish the purpose of the election.~~ All other  
 1230 proceedings in connection with any such election shall be in conformity with the proceedings  
 1231 prescribed in § 11 of Chapter 415 of the Acts of Assembly of 1932, ~~approved March 31, 1932.~~

1232 **Drafting note: The means of expressing approval or disapproval are updated to**  
 1233 **conform to current election law. New language is taken from § 24.2-684 on how**  
 1234 **referendum elections are called and held and how the results are ascertained and certified.**

1235 **Technical changes are made.**

1236 § ~~33.1-87~~ 33.2-345. Effect of election to determine return to the secondary state highway  
 1237 system.

1238 If the result of ~~such an~~ election pursuant to § 33.2-xxx [previous section, § 33.1-86] ~~shall~~  
 1239 ~~be is~~ in favor of the county ~~coming back within returning to~~ the secondary state highway system  
 1240 ~~of state highways~~, such county shall, after the entry by the court of an order so declaring the  
 1241 result of such election and on and after the first day of July next succeeding, be within the  
 1242 secondary state highway system ~~of state highways~~ as fully and completely as if it had not  
 1243 withdrawn ~~therefrom~~. All provisions of this article shall thereupon apply to and be enforced as  
 1244 to such county to the same extent as if the dates in ~~such~~ Chapter 415 of the Acts of Assembly of

1245 1932 had been changed to correspond with the year in which such county ~~shall come within~~  
1246 ~~returns to~~ the secondary state highway system ~~of state highways~~. Such county shall not be  
1247 allowed again to withdraw from the secondary state highway system ~~of state highways~~.

1248 **Drafting note: Technical changes.**

1249 § ~~33.1-88~~ 33.2-346. Machinery, etc., owned by returning county.

1250 The Commissioner of Highways shall, as promptly as practicable, make ~~or cause to be~~  
1251 ~~made~~ an inventory and appraisal of all road machinery, equipment, teams, material, and  
1252 supplies, on hand or belonging to the local road highway authorities of any county that ~~shall so~~  
1253 ~~return within~~ returns to the secondary state highway system ~~of state highways~~ or any district  
1254 thereof, ~~which that~~ may be deemed by him suitable for work on the secondary state highway  
1255 system ~~of state highways~~, and shall file such inventory and appraisal with the ~~Commonwealth~~  
1256 ~~Transportation~~ Board. The local road highway authorities may, if they so elect, turn over to the  
1257 Commonwealth such road machinery, equipment, teams, material, and supplies at the appraised  
1258 value thereof, which shall be paid within two years out of funds available for expenditure on  
1259 ~~roads highways~~ in the secondary state highway system ~~of state highways~~ or, if they so prefer,  
1260 the local road highway authorities may retain or sell any of such property otherwise or, if they  
1261 so elect, may turn over to the Commissioner of Highways all or any of such property for use  
1262 upon the secondary state highway system ~~of state highways~~ without reimbursement therefor.  
1263 Any sums received by the local road highway authorities under the provisions of this section  
1264 shall, so far as may be necessary, be applied on account of obligations ~~theretofore previously~~  
1265 contracted for county or district road highway purposes and the balance, if any, for general  
1266 county purposes.

1267 **Drafting note: Technical changes.**

1268 Article 4.

1269 The Urban Highway System.

1270 **Drafting note: A new article is created to relocate and bring together all sections**  
1271 **relating to the urban highway system. The sections found in this article were previously**  
1272 **included within articles pertaining to other highway systems.**

1273 § ~~33.1-43.2~~ 33.2-347. Minimum ~~road street and highway~~ standards for certain towns.  
1274 Notwithstanding ~~any other the~~ provisions of § ~~33.1-43~~, § ~~33.1-80~~ or § ~~33.1-82~~ 33.2-  
1275 XXX, any ~~incorporated~~ town in which ~~seventy per centum~~ 70 percent or more of developable  
1276 land within its boundaries has a natural grade of ~~twenty per centum~~ 20 percent or more may by  
1277 ordinance provide for streets or ~~roads~~ highways established on or after July 1, 1980, with an  
1278 unrestricted right-of-way width of not less than ~~forty~~ 40 feet and a ~~hard surface~~ hard-surface  
1279 width of not less than ~~eighteen~~ 18 feet; provided, ~~however, that~~ no such requirement of any  
1280 such town shall be less stringent than that of the county in which ~~such the~~ town is located.  
1281 Streets and ~~roads~~ highways so established and constructed shall be eligible for payment in  
1282 accordance with ~~§§ 33.1-43, 33.1-80 and 33.1-82~~ § 33.2-XXX.

1283 **Drafting note: Existing §§ 33.1-43 and 33.1-80 have both been repealed; only the**  
1284 **reference to existing § 33.1-82 remains. Technical changes are also made.**

1285 § ~~33.1-44~~ 33.2-348. Matching highway funds; funding of urban system construction  
1286 projects, generally.

1287 A. For the purposes of this section, "construction or improvement" means the  
1288 supervising, inspecting, actual building, and all expenses incidental to the construction or  
1289 reconstruction of a highway, including locating, surveying, design and mapping, costs of rights-  
1290 of-way, signs, signals and markings, elimination of hazards of railroad grade crossings and  
1291 expenses incidental to the relocation of any utility or its facilities owned by a municipality or by  
1292 a public utility district or public utility authority.

1293 B. In any case in which an act of Congress requires that federal-aid highway funds made  
1294 available for the construction or improvement of federal or state highways be matched, the  
1295 ~~Commonwealth Transportation~~ Board shall contribute such matching funds. However, in the  
1296 case of municipalities with a population of 3,500 or more ~~population~~ eligible for an allocation of

1297 construction funds for urban highways under § ~~33.1-23.3~~ 33.2-XXX and the Town of Wise, the  
1298 Town of Lebanon, and the Town of Altavista, the Board may contribute toward the cost of  
1299 construction of any federal-aid highway or street project ~~ninety-eight~~ 98 percent of the  
1300 necessary funds, including the federal portion, if the municipality contributes the other two  
1301 percent, and provided further, that within such municipalities the Board may contribute all the  
1302 required funds on highways in the ~~interstate system~~ Interstate System.

1303 In the case of municipalities with a population of 3,500 or more ~~population~~ eligible for  
1304 an allocation of construction funds for urban highways under § ~~33.1-23.3~~ 33.2-XXX and the  
1305 Town of Wise, the Town of Lebanon, and the Town of Altavista, the ~~Commonwealth~~  
1306 ~~Transportation~~ Board may contribute toward the costs of construction or improvement of any  
1307 highway or street project for which no federal-aid highway funds are made available ~~ninety-~~  
1308 ~~eight~~ 98 percent of the necessary funds if the municipality contributes the other two percent.

1309 For purposes of matching highway funds, such contributions shall continue to apply to  
1310 such municipality regardless of any subsequent change in population and shall cease to apply  
1311 only when so specifically provided by an act of the General Assembly. All actions taken prior to  
1312 July 1, 2001, by municipalities meeting the criteria of the foregoing provisions of this section  
1313 are hereby confirmed.

1314 C. In the case of municipalities with a population of less than 3,500 ~~in population~~ that on  
1315 June 30, 1985, maintained certain streets under § ~~33.1-80~~ 33.2-XXX as then in effect, the  
1316 ~~Commonwealth-Transportation~~ Board shall contribute toward the costs of construction or  
1317 improvement of any highway or street project 100 percent of the necessary funds. The  
1318 contribution authorized by this ~~paragraph subsection~~ shall be in addition to any other  
1319 contribution, and projects established in reference to municipalities with a population of less  
1320 than 3,500 ~~in population~~ shall not in any way be interpreted to change any other formula or  
1321 manner for the distribution of funds to such municipalities for construction, improvement, or  
1322 maintenance of highways or streets. The Board may accept from a municipality, for right-of-

1323 way purposes, contributions of real estate to be credited, at fair market value, against the  
1324 matching obligation of such municipality under the provisions of this section.

1325 ~~The term "construction or improvement" means the supervising, inspecting, actual~~  
1326 ~~building, and all expenses incidental to the construction or reconstruction of a highway,~~  
1327 ~~including locating, surveying, design and mapping, costs of rights of way, signs, signals and~~  
1328 ~~markings, elimination of hazards of railroad grade crossings and expenses incidental to the~~  
1329 ~~relocation of any utility or its facilities owned by a municipality or by a public utility district or~~  
1330 ~~public utility authority.~~

1331 D. If any municipality requesting ~~such Commonwealth Transportation~~ a Board  
1332 contribution subsequently decides to cancel ~~such the~~ construction or improvement after the  
1333 Board has initiated the project at the request of the municipality, ~~such the~~ municipality shall  
1334 reimburse the Board the net amount of all funds expended by the Board for planning,  
1335 engineering, right-of-way acquisition, demolition, relocation, and construction between the date  
1336 of initiation by the municipality and the date of cancellation. The Board ~~shall have~~ has the  
1337 authority to waive all or any portions of ~~such the~~ reimbursement at its discretion.

1338 E. For purposes of this section, on any construction or improvement project in the Cities  
1339 of Chesapeake, Hampton, Newport News, or Richmond and funded in accordance with  
1340 subdivision C 2 ~~of subsection B~~ of § ~~33.1-23.1 33.2-XXX~~, the additional cost ~~for of~~ placing  
1341 aboveground utilities below ground may be paid from funds allocated for that project. The  
1342 maximum cost due to this action shall not exceed ~~five \$5~~ million ~~dollars~~. Nothing contained  
1343 ~~herein in this section~~ shall relieve utility owners of their responsibilities and costs associated  
1344 with the relocation of their facilities when required to accommodate a construction or  
1345 improvement project.

1346 **Drafting note: Technical changes.**

1347 ~~§ 33.1-45.~~

1348 **Drafting note: Repealed by Acts 1985, c. 42.**

1349 ~~§ 33.1-46 33.2-349.~~ Character of signs, etc., in event of matching public funds.

1350 On any urban highway upon which the Board has expended funds in the manner  
1351 provided in ~~§§ 33.1-23.3 and 33.1-44~~ § 33.2-XXX, the location, form, and character of  
1352 informational, regulatory, and warning signs, curb and pavement, or other markings and traffic  
1353 signals installed or placed by any public authority shall be subject to the approval of the  
1354 Commissioner of Highways.

1355 **Drafting note: Technical changes.**

1356 ~~§ 33.1-47.1~~ 33.2-350. Landscape studies for urban highway construction projects.

1357 Prior to final design of any urban highway funded in part by any municipality, such  
1358 municipality may ~~have conducted a landscape study by a hire~~ competent authority ~~which to~~  
1359 conduct a landscape study that shall assess the effect such proposed highway construction may  
1360 have on existing trees, shrubbery, and other flora and shall make recommendations as to  
1361 modifications to such project ~~which that~~ would minimize damage to existing flora. The  
1362 Department ~~of Transportation~~ shall consider such recommendations and modify such highway  
1363 construction plans to protect trees, shrubbery, and other flora if determined by the Department  
1364 to be reasonable and practicable. The cost of such landscape study shall be payable by the  
1365 municipality ~~which that~~ initiates such ~~statement study~~.

1366 **Drafting note: Technical changes.**

1367 Article ~~1.1~~ 5.

1368 Allocation of Highway Funds.

1369 **Drafting note: Existing Article 1.1 of Chapter 1 is relocated to this proposed**  
1370 **Chapter 3 as Article 5 and combines several sections concerning allocation of highway**  
1371 **funds.**

1372 ~~§ 33.1-23.01~~ 33.2-351. Definition of ~~the term~~ "allocation."

1373 For the purposes of this article, ~~the term~~ "allocation" ~~shall mean means~~ a commitment to  
1374 expend funds available for construction during each fiscal year. Funds ~~which that~~ cannot be  
1375 expended as allocated within each fiscal year shall be identified as part of future commitments.

1376 and the reason for the failure to spend allocations shall be specifically included in the annual  
1377 construction improvement program.

1378 **Drafting note: Technical changes.**

1379 ~~§ 33.1-23.02 33.2-352. Definition of the terms "maintenance" and "asset management."~~  
1380 ~~Department of Transportation to develop asset management practices; Commissioner of~~  
1381 ~~Highways to report to Commonwealth Transportation Board on maintenance.~~

1382 A. ~~For the purpose of this title, unless otherwise explicitly provided, the term~~  
1383 ~~"maintenance" shall include (i) ordinary maintenance, (ii) maintenance replacement, (iii)~~  
1384 ~~operations that include, but are not limited to, traffic signal synchronization, incident~~  
1385 ~~management, other intelligent transportation system functions, and (iv) any other categories of~~  
1386 ~~maintenance which may be designated by the Commissioner.~~

1387 B. 1. ~~For the purposes of this title, unless otherwise explicitly provided, the term "asset~~  
1388 ~~management" shall mean a systematic process of operating and maintaining the state system of~~  
1389 ~~highways by combining engineering practices and analysis with sound business practices and~~  
1390 ~~economic theory to achieve cost-effective outcomes.~~

1391 ~~2.~~The Department shall develop asset management practices in the operation and  
1392 maintenance of the ~~state system systems~~ of state highways.

1393 ~~3.~~B. The Commissioner of Highways shall advise the Board, on or before June 30 of  
1394 even-numbered years, of performance targets and outcomes that are expected to be achieved,  
1395 based ~~upon~~ on the funding identified for maintenance, over the biennium beginning July 1 of  
1396 that year. In addition, not later than September 30 of even-numbered years, the Commissioner of  
1397 Highways shall advise the Board on the Department's accomplishments relative to the expected  
1398 outcomes and budget expenditures for the biennium ending June 30 of that year and also advise  
1399 the Board as to the methodology used to determine maintenance needs and the justification as to  
1400 the maintenance funding by source.

1401           **Drafting note: The definitions of "asset management" and "maintenance" are**  
1402 **relocated to proposed § 33.2-100, the titlewide definitions section. Technical changes are**  
1403 **also made.**

1404           § ~~33.1-23.03~~ 33.2-353. Commonwealth Transportation Board to develop and update  
1405 Statewide Transportation Plan.

1406           A. The ~~Commonwealth Transportation~~ Board shall, with the assistance of the Office of  
1407 Intermodal Planning and Investment, conduct a comprehensive review of statewide  
1408 transportation needs in a Statewide Transportation Plan setting forth assessment of capacity  
1409 needs for all corridors of statewide significance, regional networks, and improvements to  
1410 promote urban development areas established pursuant to § 15.2-2223.1. The assessment shall  
1411 consider all modes of transportation. Such corridors shall be planned to include multimodal  
1412 transportation improvements, and the plan shall consider corridor location in planning for any  
1413 major transportation infrastructure, including environmental impacts and the comprehensive  
1414 land use plan of the locality in which the corridor is planned. In the designation of such  
1415 corridors, the ~~Commonwealth Transportation~~ Board shall not be constrained by local, district,  
1416 regional, or modal plans.

1417           ~~This~~ The Statewide Transportation Plan shall be updated as needed, but no less than  
1418 once every four years. The plan shall promote economic development and all transportation  
1419 modes, intermodal connectivity, environmental quality, accessibility for people and freight, and  
1420 transportation safety.

1421           B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that  
1422 cover at least a 20-year planning horizon, in accordance with federal transportation planning  
1423 requirements. The plan shall include quantifiable measures and achievable goals relating to, but  
1424 not limited to, congestion reduction and safety, transit and high-occupancy vehicle facility use,  
1425 job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality,  
1426 movement of freight by rail, and per capita vehicle miles traveled. The Board shall consider

1427 such goals in evaluating and selecting transportation improvement projects for inclusion in the  
1428 Six-Year Improvement Program pursuant to § ~~33.1-12~~ 33.2-XXX.

1429 C. The plan shall incorporate the ~~approved long-range plans~~' measures and goals of the  
1430 approved long-range plans developed by the applicable regional organizations. Each such plan  
1431 shall be summarized in a public document and made available to the general public upon  
1432 presentation to the Governor and General Assembly.

1433 D. It is the intent of the General Assembly that this plan assess transportation needs and  
1434 assign priorities to projects on a statewide basis, avoiding the production of a plan ~~which that~~ is  
1435 an aggregation of local, district, regional, or modal plans.

1436 **Drafting note: Technical changes.**

1437 § ~~33.1-23.03:001~~ 33.2-354. Commonwealth Transportation Board to develop and update  
1438 Statewide Pedestrian Policy.

1439 A. The ~~Commonwealth Transportation~~ Board shall ~~prepare~~ develop and update as  
1440 needed a Statewide Pedestrian Policy. The Board shall:

1441 1. Provide opportunities for receipt of comments, suggestions, and information from  
1442 local governments, business and civic organizations, and other concerned parties;

1443 2. Identify and evaluate needs at statewide, regional, and local levels for additional  
1444 facilities required to promote pedestrian access to schools, places of employment and recreation,  
1445 and major activity centers;

1446 3. Consider and evaluate potential ways of meeting these needs; and

1447 4. Set forth conclusions as to goals, objectives, and strategies to meet these needs in a  
1448 safety-conscious manner.

1449 B. The Board shall coordinate the development of the Statewide Pedestrian Policy with  
1450 that of the Statewide Transportation Plan provided for in § ~~33.1-23.03~~ 33.2-XXX and cover the  
1451 same ~~twenty-year~~ 20-year planning horizon. The Statewide Pedestrian Policy shall be  
1452 summarized in a public document and made available to the general public upon presentation to

1453 the Governor and General Assembly, either in combination with the Statewide Transportation  
1454 Plan or as a separate document.

1455 **Drafting note: Technical changes.**

1456 | § ~~33.1-23.03:002~~ 33.2-355. Goals for addressing transportation needs of populations  
1457 with limited mobility.

1458 | The ~~Commonwealth Transportation~~ Board, in cooperation with other local, regional, or  
1459 statewide agencies and entities vested with transportation planning responsibilities, shall  
1460 establish specific mobility goals for addressing the transportation needs of populations with  
1461 limited mobility, including, ~~but not necessarily limited to~~, the elderly, persons with disabilities  
1462 that limit their mobility, persons not served by any form of mass transit, and those who, for  
1463 whatever reasons, cannot afford motor vehicles or cannot be licensed to drive them. Such goals,  
1464 once established, shall be considered in the development and implementation of the Statewide  
1465 Transportation Plan required by § ~~33.1-23.03~~ 33.2-XXX.

1466 **Drafting note: The phrase "but not necessarily limited to" is removed based on § 1-**  
1467 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1468 **also made.**

1469 | § ~~33.1-23.03:6~~ 33.2-356. Funding for extraordinary repairs.

1470 | Notwithstanding any contrary provision of the Code, the ~~Commonwealth Transportation~~  
1471 Board ~~shall have~~ has the authority to provide, from revenues available for highway capital  
1472 improvements under § ~~33.1-23.03:2~~ 33.2-XXX, except for revenues pledged to secure any  
1473 bonds issued for transportation purposes, for exceptionally heavy expenditures for repairs or  
1474 replacements made necessary by highway damage resulting from extraordinary accidents,  
1475 vandalism, weather conditions, or acts of God as well as to respond to federal funding initiatives  
1476 ~~which~~ that require matching funds.

1477 **Drafting note: Technical changes.**

1478           **Drafting note: In subdivision B 1, "without limitation" is removed based on § 1-**  
1479 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1480 **made.**

1481           § ~~33.1-23.05~~ 33.2-357. Revenue-sharing funds for systems in certain ~~counties, cities, and~~  
1482 ~~towns~~ localities.

1483           A. From revenues made available by the General Assembly and appropriated for the  
1484 improvement, construction, reconstruction, or maintenance of the systems of state highways, the  
1485 ~~Commonwealth Transportation~~ Board may make an equivalent matching allocation to any  
1486 ~~county, city, or town~~ locality for designations by the governing body of up to \$10 million for  
1487 use by the ~~county, city, or town~~ locality to improve, construct, or reconstruct the highway  
1488 systems within such ~~county, city, or town~~ locality with up to \$5 million for use by the ~~county,~~  
1489 ~~city, or town~~ locality to maintain the highway systems within such ~~county, city, or town~~ locality.  
1490 After adopting a resolution supporting the action, the governing body of the locality may request  
1491 revenue-sharing funds to improve, construct, reconstruct, or maintain a highway system located  
1492 in another locality; or between two or more localities; or to bring subdivision streets, used as  
1493 such prior to the date specified in § ~~33.1-72.1~~ 33.2-XXX, up to standards sufficient to qualify  
1494 them for inclusion in the ~~state~~ primary ~~and or~~ secondary ~~system of highways~~ state highway  
1495 system. All requests for funding shall be accompanied by a prioritized listing of specified  
1496 projects.

1497           B. In allocating funds under this section, the Board shall give priority first to allocations  
1498 that will accelerate projects in the ~~Commonwealth Transportation Board's~~ Six-Year  
1499 Improvement Program or the locality's capital plan and next to those pavement resurfacing and  
1500 bridge rehabilitation projects where the maintenance needs analysis determines that the  
1501 infrastructure is below the ~~Department of Transportation's~~ Department's maintenance  
1502 performance targets.

1503           C. The Department ~~of Transportation will~~ shall contract with the ~~county, city, or town~~  
1504 locality for the implementation of the project ~~or projects~~. Such contract may cover either a

1505 single project or may provide for the locality's implementation of several projects. The ~~county,~~  
1506 ~~city, or town will~~ locality shall undertake implementation of the particular project ~~or projects~~ by  
1507 obtaining the necessary permits from the Department ~~of Transportation~~ in order to ensure that  
1508 the improvement is consistent with the Department's standards for such improvements. At the  
1509 request of the locality, the Department may provide the locality with engineering, right-of-way  
1510 acquisition, construction, ~~and/or or~~ maintenance services for a project with its own forces. The  
1511 locality shall provide payment to the Department for any such services. If administered by the  
1512 Department, such contract shall also require that the governing body of the locality pay to the  
1513 Department within 30 days the local revenue-sharing funds upon written notice by the  
1514 Department of its intent to proceed. Any project having funds allocated under this program shall  
1515 be initiated in such a fashion ~~where that~~ at least a portion of such funds have been expended  
1516 within one year of allocation. Any revenue-sharing funds for projects not initiated after two  
1517 subsequent fiscal years of allocation may be reallocated at the discretion of the ~~Commonwealth~~  
1518 ~~Transportation~~ Board.

1519 D. Total Commonwealth funds allocated by the Board under this section shall not  
1520 exceed \$200 million in any one fiscal year and shall be no less than \$15 million in each fiscal  
1521 year, subject to appropriation for such purpose. For any fiscal year in which less than the full  
1522 program allocation has been allocated by the ~~Commonwealth Transportation~~ Board to specific  
1523 governing bodies, those localities requesting the maximum allocation under subsection A may  
1524 be allowed an additional allocation at the discretion of the Board.

1525 E. The funds allocated by the ~~Commonwealth Transportation~~ Board under this section  
1526 shall be distributed and administered in accordance with the revenue-sharing program guidelines  
1527 established by the Board.

1528 **Drafting note: Technical changes.**

1529 § ~~33.1-23.1~~ 33.2-358. Allocation of funds among highway systems.

1530 A. As used in this section:

1531 "Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of  
1532 those bridges identified by the Department as being functionally obsolete or structurally  
1533 deficient.

1534 "High priority projects" means those projects of regional or statewide significance  
1535 identified by the Board that reduce congestion, increase safety, create jobs, or increase  
1536 economic development.

1537 "Smart roadway technology" means those projects or programs identified by the Board  
1538 that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or  
1539 improve emergency response.

1540 B. ~~The Commonwealth Transportation~~ Board shall allocate each year from all funds  
1541 made available for highway purposes such amount as it deems reasonable and necessary for the  
1542 maintenance of roads within the ~~interstate system of highways~~ Interstate System, the primary  
1543 state highway system ~~of state highways, and~~ the secondary state highway system ~~of state~~  
1544 ~~highways~~ and for city and town street maintenance payments made pursuant to § ~~33.1-41.1~~  
1545 33.2-XXX and payments made to counties ~~which that~~ have withdrawn or elect to withdraw from  
1546 the secondary state highway system ~~of state highways~~ pursuant to § ~~33.1-23.5:1~~ 33.2-XXX.

1547 B. C. After funds are set aside for administrative and general expenses and pursuant to  
1548 other provisions in this title that provide for the disposition of funds prior to allocation for  
1549 highway purposes, and after allocation is made pursuant to subsection ~~A B~~, the ~~Commonwealth~~  
1550 ~~Transportation~~ Board shall allocate an amount determined by the Board; not to exceed \$500  
1551 million in any given year; as follows: (i) 25 percent to bridge reconstruction and rehabilitation;  
1552 (ii) 25 percent to advancing high priority projects statewide; (iii) 25 percent to reconstructing  
1553 deteriorated ~~interstate~~ Interstate System and primary state highway system pavements  
1554 determined to have a Combined Condition Index of less than 60; (iv) 15 percent to projects  
1555 undertaken pursuant to the Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et  
1556 seq.); (v) five percent to paving unpaved ~~roads~~ highways carrying more than 200 vehicles per  
1557 day; and (vi) five percent to smart roadway technology, provided that; at the discretion of the

1558 ~~Commonwealth Transportation~~ Board; such percentages of funds may be adjusted in any given  
1559 year to meet project cash flow needs or when funds cannot be expended due to legal,  
1560 environmental, or other project management considerations and provided that such allocations  
1561 shall cease beginning July 1, 2020. After such allocations are made, the Board may allocate  
1562 each year up to 10 percent of the funds remaining for highway purposes for the undertaking and  
1563 financing of rail projects that, in the Board's determination, will result in mitigation of highway  
1564 congestion. After the foregoing allocations have been made, the Board shall allocate the  
1565 remaining funds available for highway purposes, exclusive of federal funds for the ~~interstate~~  
1566 ~~system~~ Interstate System, among the ~~several~~ highway systems for construction first pursuant to  
1567 §§ ~~33.1-23.1:1~~ 33.2-XXX and ~~33.1-23.1:2~~ 33.2-XXX and then as follows:

1568 1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the  
1569 ~~interstate system~~ Interstate System shall be allocated to the primary state highway system ~~of~~  
1570 ~~state highways~~, including the arterial network, and in addition, an amount shall be allocated to  
1571 the primary state highway system as interstate matching funds as provided in subsection B of §  
1572 ~~33.1-23.2~~ 33.2-XXX.

1573 2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the  
1574 ~~interstate system~~ Interstate System shall be allocated to urban highways for state aid pursuant to  
1575 § ~~33.1-44~~ 33.2-XXX.

1576 3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the  
1577 ~~interstate system~~ Interstate System shall be allocated to the secondary state highway system ~~of~~  
1578 ~~state highways~~.

1579 C-D. In addition, the ~~Commonwealth Transportation~~ Board, from funds appropriated for  
1580 such purpose in the general appropriation act, shall allocate additional funds to the Cities of  
1581 Newport News, Norfolk, and Portsmouth and the County of Warren in such manner and  
1582 apportion such funds among such localities as the Board may determine, unless otherwise  
1583 provided in the general appropriation act. The localities shall use such funds to address highway  
1584 maintenance and repair needs created by or associated with port operations in those localities.

1585 ~~D. E.~~ Notwithstanding the ~~foregoing~~ provisions of this section, the General Assembly  
1586 may, through the general ~~appropriations~~ appropriation act, permit the Governor to increase the  
1587 amounts to be allocated to highway maintenance, highway construction, either or both.

1588 ~~E. As used in this section:~~

1589 ~~"Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of~~  
1590 ~~those bridges identified by the Department of Transportation as being functionally obsolete or~~  
1591 ~~structurally deficient.~~

1592 ~~"High priority projects" means those projects of regional or statewide significance~~  
1593 ~~identified by the Board that reduce congestion, increase safety, create jobs, or increase~~  
1594 ~~economic development.~~

1595 ~~"Smart roadway technology" means those projects or programs identified by the Board~~  
1596 ~~that reduce congestion, improve mobility, improve safety, provide up to date travel data, or~~  
1597 ~~improve emergency response.~~

1598 **Drafting note: In keeping with current practice, all definitions are moved to the**  
1599 **beginning of the section. Technical changes are made.**

1600 § ~~33.1-23.1:1~~ 33.2-359. Unpaved secondary ~~road~~ highway fund created; allocations.

1601 A. Before funds are allocated for distribution for highway construction pursuant to §  
1602 ~~33.1-23.1 B-subdivisions C~~ 1, ~~B~~ 2, and ~~B~~ 3 of § ~~33.2-XXX~~, a fund shall be established for the  
1603 paving of nonsurface treated secondary ~~roads which~~ highways that carry ~~fifty~~ 50 vehicles or  
1604 more per day. Such fund shall contain 5.67 percent of the total funds available for highway  
1605 construction under § ~~33.1-23.1 B-subdivisions C~~ 1, ~~B~~ 2, and ~~B~~ 3 of § ~~33.2-XXX~~.

1606 B. Such funds shall be distributed to counties in the secondary state highway system  
1607 based on the ratio of nonsurface treated roads in each county carrying ~~fifty~~ 50 vehicles or more  
1608 per day to the total number of such nonsurface treated roads in the Commonwealth.

1609 C. The governing body of any county may have funds allocated to the county under this  
1610 section added to the county's secondary system construction funds allocated pursuant to § ~~33.1-~~  
1611 ~~23.4~~ 33.2-XXX. For each \$250,000 or portion thereof added to secondary construction funds

1612 under this provision, the amount of the county's nonsurface treated roads used to distribute funds  
1613 under this section in subsequent years shall be reduced by one mile or proportional part of one  
1614 mile.

1615 **Drafting note: Technical changes.**

1616 § ~~33.1-23.1:2~~ 33.2-360. Allocation of funds for interstate match.

1617 After making the allocations provided for in subsection ~~A B~~ of § ~~33.1-23.1~~ 33.2-XXX,  
1618 but before making any allocations under subdivisions ~~B C~~ 1, ~~B~~ 2, and ~~B~~ 3 of § ~~33.1-23.1~~ 33.2-  
1619 XXX, a fund shall be established for matching federal-aid interstate funds.

1620 This fund shall be established annually by allocating to it all federal-aid interstate  
1621 matching funds needed for the year, less the total amount of district primary allocations for the  
1622 interstate federal-aid match allocated under subsection B of § ~~33.1-23.2~~ 33.2-XXX.

1623 **Drafting note: Technical changes.**

1624 § ~~33.1-23.2~~ 33.2-361. Allocation of construction funds for primary state highway system  
1625 and interstate match.

1626 A. The ~~Commonwealth Transportation~~ Board shall allocate such funds as are available  
1627 under subdivision ~~B C~~ 1 of § ~~33.1-23.1~~ 33.2-XXX to the primary state highway system ~~of state~~  
1628 highways, including the arterial network, for construction and shall apportion such funds among  
1629 the nine highway construction districts so that each highway construction district shall be  
1630 allocated a share of such funds equal to the proportion that such highway construction district  
1631 bears to the Commonwealth as a whole in terms of: (i) vehicle-miles traveled on the primary  
1632 state highway system, (ii) primary ~~road~~ highway lane mileage, and (iii) a primary ~~road~~ highway  
1633 need factor ~~which that~~ adjusts the weights in the allocation formula for the highway construction  
1634 district with the largest under-allocation relative to primary needs, with vehicle-miles traveled  
1635 weighted ~~seventy~~ 70 percent, primary ~~road~~ highway lane mileage weighted ~~twenty-five~~ 25  
1636 percent, and the primary ~~road~~ highway need factor weighted five percent.

1637 B. Out of each district's total allocation of primary funds pursuant to subdivision ~~B C~~ 1  
1638 of § ~~33.1-23.1~~ 33.2-XXX, the Board shall allocate all needed interstate federal-aid matching

1639 funds, up to a maximum of ~~twenty-five~~ 25 percent of the district's primary allocation. Any  
1640 additional interstate federal-aid matching funds needed in a district shall be allocated by the  
1641 Board from the ~~Interstate Federal Aid Matching Fund~~ fund for matching federal-aid interstate  
1642 funds established in § ~~33.1 23.1:2~~ 33.2-XXX.

1643 C. Notwithstanding subsection A ~~of this section~~, the Board may provide for  
1644 exceptionally heavy expenditures for repairs or replacements made necessary by highway  
1645 damage resulting from accidents, severe weather conditions, acts of God, or vandalism.

1646 D. Notwithstanding subsection A, the Board may, from funds available under  
1647 subdivision ~~B, C~~ 1 of § ~~33.1 23.1~~ 33.2-XXX, provide funding for the construction of highway  
1648 projects maintained or to be maintained by a municipality, provided such project involves a  
1649 component of the National Highway System and such funds are derived from allocations to the  
1650 highway construction district in which such project is located. Any allocation under this  
1651 subsection shall not diminish funds allocated or allocable to any such municipality under § ~~33.1~~  
1652 23.3 33.2-XXX.

1653 E. Such funds allocated to the primary state highway system shall, as far as possible, be  
1654 allotted prior to the commencement of the fiscal year and public announcement made of such  
1655 allotment, but the Board shall not approve such allotment until after a public hearing at which  
1656 political subdivisions of the Commonwealth and interested citizens may be heard.

1657 In any case where any allotment of funds is made under this subsection to any county, all  
1658 or a part of which subsequently is incorporated as or into a city or town, such allocation shall  
1659 not be impaired thereby and the funds so allocated shall be expended as if such county or any  
1660 part thereof had never become an incorporated city, but that portion of such city shall not be  
1661 eligible to receive funds as a city during the same year it receives the funds allocated as a county  
1662 or as any part of a county.

1663 **Drafting note: References to construction district are amended to read "highway**  
1664 **construction district" to maintain consistency throughout this title. References to**

1665 "primary roads" are amended to "primary highways" to maintain consistency and  
1666 because they are in a system of highways. Technical changes are made.

1667 § ~~33.1-23.3~~ 33.2-362. Allocation of construction funds for urban system highways.

1668 A. For the purposes of this section, "population" means either the population according  
1669 to the latest United States census or the latest population estimate of the Weldon Cooper Center  
1670 for Public Service of the University of Virginia, whichever is more recent.

1671 B. Such funds as are allocated to urban highways in (i) all towns that have a population  
1672 of more than 3,500 ~~inhabitants~~ according to the last preceding United States ~~Census, census;~~ (ii)  
1673 all towns ~~which that~~, according to evidence satisfactory to the ~~Commonwealth Transportation~~  
1674 Board, have attained a population of more than 3,500 since the last preceding United States  
1675 census; (iii) ~~all incorporated towns~~ Chase City, Elkton, Grottoes, Narrows, Pearisburg, and  
1676 Saltville, which, on June 30, 1985, maintained certain streets under § ~~33.1-80~~ 33.2-XXX as then  
1677 in effect; (iv) all cities regardless of their populations; and (v) the Towns of Wise, Lebanon,  
1678 and Altavista pursuant to subdivision ~~B\_C~~ 2 of § ~~33.1-23.1~~ 33.2-XXX shall be apportioned  
1679 among the cities and towns of ~~this the~~ Commonwealth by the ~~Commonwealth Transportation~~  
1680 Board in such a manner that each city or town to which these funds are allocable receives the  
1681 same proportion of total funds available as the population of that city or town bears to the total  
1682 population of all cities and towns among which such funds are allocable. ~~For the purposes of~~  
1683 ~~this section, the term "population" means either the population according to the latest United~~  
1684 ~~States census or the latest population estimate of the Center for Public Service, whichever is~~  
1685 ~~more recent.~~ Whenever any city or town qualifies under this section for allocation of funds, such  
1686 qualification shall continue to apply to such city or town notwithstanding any subsequent  
1687 changes in population and shall cease to apply only upon the subsequent enactment by the  
1688 General Assembly of a measure in which the intent is clearly stated. All allocations made prior  
1689 to July 1, 2001, to cities and towns meeting the criteria ~~above~~ in this subsection are hereby  
1690 ratified, validated, and confirmed.

1691 B-C. No apportionment ~~hereunder pursuant to this section~~ shall be made to any city or  
1692 town ~~which that~~ does not have an urban project or projects approved by the ~~Commonwealth~~  
1693 ~~Transportation~~ Board, and in no case shall the apportionment to any city or town exceed the  
1694 total estimated cost of the project or projects for which funds are allocated. Such funds shall, as  
1695 far as possible, be allotted prior to the commencement of the fiscal year and public  
1696 announcement shall be made of such allotment. Any apportionment due but not received by any  
1697 city or town in a fiscal year for use under this section shall accrue as a credit to such city or  
1698 town and be held for its construction projects for five succeeding fiscal years. Funds accrued  
1699 shall be apportioned prior to any other distribution under this section in the fiscal year requested  
1700 by the city or town.

1701 A portion of allocations made to any city or town under this section may be used on  
1702 streets functionally classified as arterial for (i) the purchase of residue parcels or land resulting  
1703 from highway construction or reconstruction projects where the purchase will result in  
1704 necessary access control or land use control directly related to the purpose and need for the  
1705 project, (ii) improvements to traffic safety, (iii) improvement to traffic flow and transportation  
1706 system use, or (iv) any combination of clauses (i), (ii), and (iii). Notwithstanding other  
1707 provisions of this section, not more than two-thirds of the annual urban system highway funds  
1708 apportioned to a city or town under this section may be used to reimburse the locality for debt  
1709 service for bonds or eligible project costs incurred on approved projects included in the Six-  
1710 Year Improvement Program of the ~~Commonwealth Transportation~~ Board and the city's or town's  
1711 capital improvement program. Such funds may also be used by the locality for debt service for  
1712 bonds issued for, or eligible project costs incurred or to be incurred on, approved projects  
1713 included, at the time such bonds are issued or such costs are incurred or are to be incurred, in the  
1714 Six-Year Improvement Program of the ~~Commonwealth Transportation~~ Board and the city's or  
1715 town's capital improvement program. Any such funds so apportioned to and received by such  
1716 city or town, or any portion thereof, may be deposited in a special fund that shall be established  
1717 separate and apart from any other funds, general or special.

1718           When the city or town presents a resolution requesting that a portion of its annual urban  
1719 system apportionment be set aside for reimbursement for, or payment of, debt service under this  
1720 section for a specific eligible project, the ~~Commonwealth Transportation~~ Board shall, subject to  
1721 appropriation and allocation, set aside no more than two-thirds of the anticipated annual  
1722 apportionment of urban system funding to the city or town for such purpose, provided such  
1723 funds have not been previously committed by the Board for projects contained in the Six-Year  
1724 Improvement Program.

1725           The setting aside and use of funds under this section for reimbursement for, or payment  
1726 of, debt service shall be subject to such terms and conditions as may be prescribed by the  
1727 Commissioner of Highways.

1728           The provisions of this section shall not constitute a debt or obligation of the  
1729 ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of Virginia~~.

1730           ~~C.~~D. The governing body of any city or town may, with the consent of the  
1731 ~~Commonwealth Transportation~~ Board, expend urban system highway construction funds  
1732 allocated annually to the city or town by the ~~Commonwealth Transportation~~ Board for the  
1733 design, land acquisition, and construction of transportation projects that have been included in  
1734 the ~~Commonwealth Transportation~~ Board's Six-Year Improvement Program and for the  
1735 resurfacing, restoration, rehabilitation, reconstruction, and improvement of streets within the  
1736 city or town for which the city receives maintenance payments under § ~~33.1-41.1~~ 33.2-XXX.

1737           ~~D.~~E. At the election of each city or town, payment of the funds may be made in equal  
1738 amounts, one in each quarter of the fiscal year, and shall be reduced; in the case of each city and  
1739 town; by the amount of federal-aid construction funds credited to each city or town and the  
1740 amount of funds forecasted to be expended by the Department of Transportation or the  
1741 Department of Rail and Public Transportation for any project ~~or projects~~ on behalf of the city or  
1742 town. Those cities or towns ~~who~~ that decide to take over the responsibility for their construction  
1743 program shall notify the ~~Commonwealth Transportation~~ Board by December 31 for  
1744 implementation the following fiscal year.

1745           **Drafting note: The definition of "population" is moved to the beginning of the**  
1746 **section to conform to current Code standards, and reference to the Weldon Cooper Center**  
1747 **for Public Service of the University of Virginia is updated to reflect its current name.**  
1748 **Subdivision (iii) of subsection B of existing § 33.1-23.3 is amended to include the names of**  
1749 **the towns that on June 30, 1985, maintained certain streets under existing § 33.1-80, with**  
1750 **the exception of Woodstock, which now exceeds a population of 3,500 and qualifies as an**  
1751 **urban locality under existing § 33.1-23.3 and no longer needs to be grandfathered in under**  
1752 **§ 33.1-80. Technical changes are made.**

1753           § ~~33.1-223.2-13~~ 33.2-363. Construction of U.S. Route 29 bypass.

1754           If the construction of a U.S. Route 29 bypass around any city located in any county that  
1755 both (i) is located outside Planning District 8 and (ii) operates under the county executive form  
1756 of government is not constructed because of opposition from a metropolitan planning  
1757 organization, and the Federal Highway Administration requires the Commonwealth to  
1758 reimburse the federal government for federal funds expended in connection with such project,  
1759 an amount equal to the amount of such reimbursement shall be deducted by the ~~Commonwealth~~  
1760 ~~Transportation~~ Board from primary state highway system ~~highway~~ construction funds allocated  
1761 or allocable to the highway construction district in which the project was located. Furthermore,  
1762 in the event of such nonconstruction, an amount equal to the total of all state funds expended on  
1763 such project shall be deducted by the ~~Commonwealth Transportation~~ Board from primary state  
1764 highway system ~~highway~~ construction funds allocated or allocable to the highway construction  
1765 district in which the project was located.

1766           **Drafting note: Technical changes.**

1767           § ~~33.1-23.4~~ 33.2-364. Allocation of construction funds within secondary state highway  
1768 system.

1769           A. For the purposes of this section:

1770 "Area" means the total land area of a county reduced by the area of any military  
1771 reservations and state or national parks or forests within its boundaries and such other similar  
1772 areas and facilities of five square miles in area or more, as may be determined by the Board.

1773 "Population" means either population according to the latest United States census or the  
1774 latest population estimate of the Weldon Cooper Center for Public Service of the University of  
1775 Virginia, whichever is more recent.

1776 B. Such funds as are allocated to the secondary state highway system-~~of state highways~~  
1777 pursuant to subdivision ~~B C~~ 3 of § ~~33.1-23.1~~ 33.2-XXX shall be apportioned among the-~~several~~  
1778 counties in the secondary state highway system by the-~~Commonwealth Transportation~~ Board so  
1779 that each such county shall be allocated a share of such funds equal to the proportion that such  
1780 county bears to the Commonwealth as a whole in terms of area and population, with population  
1781 being weighted 80 percent, and area being weighted 20 percent. ~~For the purpose of this section,~~  
1782 ~~"area" means the total land area of a county reduced by the area of any military reservations and~~  
1783 ~~state or national parks or forests within its boundaries and such other similar areas and facilities~~  
1784 ~~of five square miles in area or more, as may be determined by the Commonwealth~~  
1785 ~~Transportation Board.~~

1786 ~~For the purposes of this section, the term "population" shall mean either population~~  
1787 ~~according to the latest United States census or the latest population estimate of the Center for~~  
1788 ~~Public Service of the University of Virginia, whichever is more recent.~~

1789 If so requested in a resolution adopted by the local governing body, funds allocated to  
1790 any county under this section may be used to support primary state highway system construction  
1791 projects within the county.

1792 Before allocating funds under the-~~foregoing~~ provisions of this-~~section~~ subsection, the  
1793 Board may provide for exceptionally heavy expenditures for repairs or replacements made  
1794 necessary by highway damage resulting from accidents, severe weather conditions, acts of God,  
1795 or vandalism.

1796 ~~B.C.~~ Notwithstanding other provisions of this section, not more than one-third of the  
1797 annual secondary state highway system ~~highway~~ funds apportioned to a county under this  
1798 section may be used to reimburse the county for (i) debt service for bonds or (ii) eligible project  
1799 costs incurred on approved projects included in the county's Secondary Six-Year Plan and the  
1800 county's capital improvement program. Such funds may also be used by the county for debt  
1801 service for bonds issued for, or eligible project costs incurred or to be incurred on, approved  
1802 projects included, at the time such bonds are issued or such costs are incurred or are to be  
1803 incurred, in the Six-Year Improvement Program of the ~~Commonwealth Transportation~~ Board  
1804 and the county's capital improvement program. Any such funds so apportioned to and received  
1805 by such county, or any portion thereof, may be deposited in a special fund that shall be  
1806 established separate and apart from any other funds, general or special.

1807 When a county presents a resolution requesting that a portion of its annual ~~secondary~~  
1808 construction allocation for secondary highways be set aside for reimbursement for, or payment  
1809 of, debt service under this section for a specific eligible project, the ~~Commonwealth~~  
1810 ~~Transportation~~ Board shall, subject to appropriation and allocation, set aside no more than one-  
1811 third of the anticipated annual allocation of secondary state highway system construction  
1812 funding to the county for such purpose, provided such funds have not been previously  
1813 committed for projects contained in the county's Secondary Six-Year Plan.

1814 The setting aside and use of funds under this section for reimbursement for, or payment  
1815 of, debt service shall be subject to such terms and conditions as may be prescribed by the  
1816 Commissioner of Highways.

1817 The provisions of this section shall not constitute a debt or obligation of the  
1818 ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of Virginia~~.

1819 ~~C.D.~~ In counties having elected to manage the construction program for the secondary  
1820 state highway system ~~of state highways~~ within the county, in accordance with § ~~33.1-84.1~~ 33.2-  
1821 XXX, payment of funds from the allocation of secondary state highway system construction  
1822 funds for the county may be made in equal amounts, one in each quarter of the fiscal year, and

1823 shall be reduced by the amount of federal-aid construction funds credited to each county, which  
1824 will be reimbursed as qualifying expenditures occur and by the amount of funds forecast by the  
1825 Department of Transportation and by the Department of Rail and Public Transportation to be  
1826 expended for any construction project ~~or projects~~ or county-wide activities on behalf of the  
1827 county or other financial obligations. Those counties that decide to take over the responsibility  
1828 for the secondary state highway system construction program shall notify the ~~Commonwealth~~  
1829 ~~Transportation~~ Board by July 1 for implementation the following year. Implementation shall  
1830 take place as specified in the agreement referenced in § ~~33.1-84.1~~ 33.2-XXX.

1831 ~~D.~~ E. The chief administrative officer of counties receiving funds under subsection ~~C~~ of  
1832 ~~this section~~ D shall make annual reports of expenditures to the Department ~~of Transportation~~ in  
1833 such form as the ~~Commonwealth Transportation~~ Board shall prescribe, accounting for all  
1834 construction expenditures made from quarterly payments. Such reports shall be included in the  
1835 scope of the annual audit of each county conducted by independent certified public accountants.

1836 **Drafting note: The definitions of "area" and "population" are relocated to the**  
1837 **beginning of the section and reference to the Weldon Cooper Center for Public Service of**  
1838 **the University of Virginia is updated to reflect its current name. Technical changes are**  
1839 **made.**

1840 § ~~33.1-23.4:01~~ 33.2-365. Allocation of proceeds of Commonwealth of Virginia  
1841 Transportation Capital Projects Revenue Bonds.

1842 The ~~Commonwealth Transportation~~ Board shall allocate, use, and distribute the proceeds  
1843 of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision ~~4f~~ XXX of  
1844 § ~~33.1-269~~ 33.2-XXX, as follows:

1845 1. A minimum of 20 percent of the bond proceeds shall be used for transit capital as  
1846 further described in subdivision A 4 c of § 58.1-638.

1847 2. A minimum of 4.3 percent of the bond proceeds shall be used for rail capital  
1848 consistent with the provisions of §§ ~~33.1-221.1:1.1~~ 33.2-XXX and ~~33.1-221.1:1.2~~ 33.2-XXX.

1849           3. The remaining amount of bond proceeds shall be used for paying the costs incurred or  
1850 to be incurred for construction of transportation projects with such bond proceeds used or  
1851 allocated as follows: (i) first, to match federal highway funds projected to be made available and  
1852 allocated to highway and public transportation capital projects to the extent determined by the  
1853 ~~Commonwealth Transportation~~ Board, for purposes of allowing additional state construction  
1854 funds to be allocated to the primary, urban, and secondary highway systems ~~of highways~~  
1855 pursuant to subdivisions ~~B, C~~ 1, ~~B~~ 2, and ~~B~~ 3 of § ~~33.1-23.1~~ 33.2-XXX; (ii) ~~next~~ second, to  
1856 provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue  
1857 sharing matching funds pursuant to § ~~33.1-23.05~~ 33.2-XXX to the extent determined by the  
1858 ~~Commonwealth Transportation~~ Board; and (iii) third, to pay or fund the costs of statewide or  
1859 regional projects throughout the Commonwealth. Costs incurred or to be incurred for  
1860 construction or funding of these transportation projects shall include, ~~but are not limited to,~~  
1861 environmental and engineering studies; ~~rights-of-way acquisition;~~ improvements to all modes  
1862 of transportation; ~~acquisition, construction,~~ and related improvements; ~~and any financing costs~~  
1863 or other financing expenses relating to such bonds. Such costs may include the payment of  
1864 interest on such bonds for a period during construction and not exceeding one year after  
1865 completion of construction of the relevant project.

1866           4. The total amount of bonds authorized shall be used for purposes of applying the  
1867 percentages in subdivisions 1 ~~through, 2, and~~ 3.

1868           **Drafting note: In subdivision 3, "but are not limited to" is removed based on § 1-**  
1869 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1870 **made.**

1871           ~~§ 33.1-23.5. Funds for Arlington and Henrico.~~

1872           ~~Notwithstanding any other provision of law, for fiscal year nineteen hundred seventy-six~~  
1873 ~~and thereafter the Highway and Transportation Commission shall pay to the following counties~~  
1874 ~~which have withdrawn from the secondary system of State highways under the provisions of §~~  
1875 ~~11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to~~

1876 ~~Henrico County and amount equal to 1.825 per centum of the net revenue available for highway~~  
1877 ~~purposes under Chapter 13 of Title 58 (§ 58-686 et seq.) for each fiscal year and to Arlington~~  
1878 ~~County an amount equal to 1.281 per centum of the net revenue available for highway purposes~~  
1879 ~~under said chapter for each fiscal year. The allocations under this subsection shall be the only~~  
1880 ~~entitlements of Henrico and Arlington counties with respect to the motor fuel tax levied under~~  
1881 ~~said chapter by virtue of having withdrawn from the secondary system. Further, notwithstanding~~  
1882 ~~any other provision of law to the contrary, the Commission shall, before apportioning secondary~~  
1883 ~~funds derived from the nineteen hundred sixty four and nineteen hundred sixty six sessions of~~  
1884 ~~the General Assembly to the counties in the secondary system, pay to the counties which have~~  
1885 ~~withdrawn their roads from the secondary system a portion of such revenue equal to 1.825 per~~  
1886 ~~centum in the case of Henrico County and 1.281 per centum in the case of Arlington County.~~  
1887 ~~The entitlements of those counties from all other sources shall be computed as provided by law~~  
1888 ~~Not set out. (1977, c. 578.)~~

1889 **Drafting note: This section is derived from Chapter 578 of the Acts of Assembly of**  
1890 **1977 and currently is not set out, but it is rendered obsolete by § 33.1-23.5:1.**

1891 ~~§ 33.1-23.5:1 33.2-366. Funds for counties ~~which that~~ have withdrawn or elect to~~  
1892 ~~withdraw from the secondary state highway system ~~of state highways~~.~~

1893 ~~Notwithstanding the provisions of § 33.1-23.5, pursuant Pursuant to subsection ~~A B~~ of §~~  
1894 ~~33.1-23.1 33.2-XXX, the ~~Commonwealth Transportation~~ Board shall make the following~~  
1895 ~~payments to counties ~~which that~~ have withdrawn or elect to withdraw from the secondary state~~  
1896 ~~highway system ~~of state highways~~ under the provisions of § 11 of Chapter 415 of the Acts of~~  
1897 ~~Assembly of 1932; and ~~which that~~ have not elected to return: to any county having withdrawn~~  
1898 ~~prior to June 30, 1985, and having an area greater than 100 square miles, an amount equal to~~  
1899 ~~\$12,529 per lane-mile for fiscal year 2014, and to any county having an area less than 100~~  
1900 ~~square miles, an amount equal to \$17,218 per lane-mile for fiscal year 2014; to any county that~~  
1901 ~~elects to withdraw after June 30, 1985, the ~~Commonwealth Transportation~~ Board shall establish~~  
1902 ~~a rate per lane-mile for the first year using (i) an amount for maintenance based on maintenance~~

1903 standards and unit costs used by the Department ~~of Transportation~~ to prepare its secondary state  
1904 highway system maintenance budget for the year in which the county withdraws and (ii) an  
1905 amount for administration equal to five percent of the maintenance figure determined in clause  
1906 (i) ~~above~~. The payment rates shall be adjusted annually by the Board in accordance with  
1907 procedures established for adjusting payments to cities and towns under § ~~33.1-41.1 33.2-XXX~~,  
1908 and lane mileage shall be adjusted annually to include ~~(i) (a)~~ streets and highways accepted for  
1909 maintenance in the county system by the local governing body or ~~(ii) (b)~~ streets and highways  
1910 constructed according to standards set forth in the county subdivision ordinance or county  
1911 thoroughfare plan, and being not less than the standards set by the Department ~~of~~  
1912 ~~Transportation~~. Such counties shall, in addition, each receive for construction from funds  
1913 allocated pursuant to subdivision ~~B C~~ 3 of § ~~33.1-23.1 33.2-XXX~~ an annual amount calculated  
1914 in the same manner as payments for construction in the ~~state~~ secondary state highway system  
1915 are calculated.

1916 Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal  
1917 year, and shall be reduced; in the case of each such county; by the amount of federal-aid  
1918 construction funds credited to each such county.

1919 The chief administrative officer of such counties receiving such funds shall make annual  
1920 reports of expenditures to the Board, in such form as the Board shall prescribe, accounting for  
1921 all expenditures, including delineation between construction and maintenance expenditures and  
1922 reporting on their performance as specified in subdivision B 3 of § ~~33.1-23.02 33.2-XXX~~. Such  
1923 reports shall be included in the scope of the annual audit of each county conducted by  
1924 independent certified public accountants.

1925 **Drafting note: Technical changes.**

1926 ~~§ 33.1-23.5:2.~~

1927 **Drafting note: Repealed by Acts 2013, c. 121, cl. 1.**

1928 ~~§ 33.1-46.1 33.2-367.~~ Highway aid to mass transit.

1929 In allocating highway funds, the ~~Commonwealth Transportation~~ Board may use such  
1930 funds for highway aid to mass transit facilities when such use will best accomplish the purpose  
1931 of serving the transportation needs of the greatest number of people.

1932 Highway aid to mass transit may be accomplished by (i) ~~by~~ using highway funds to aid  
1933 in paying transit operating costs borne by localities ~~and/or;~~ (ii) ~~by~~ acquisition or construction of  
1934 transit-related highway facilities such as exclusive bus lanes; ~~;~~ bus turn-outs; ~~;~~ bus passenger  
1935 shelters; ~~;~~ fringe parking facilities, including necessary access roads, to promote transit use and  
1936 relieve highway congestion; ~~;~~ and off-street parking facilities to permit exclusive use of curb lane  
1937 by buses, ~~and by;~~ or (iii) permitting mass transit facilities to occupy highway median strips  
1938 without the reimbursement required by § ~~33.1-97~~ 33.2-XXX, all to the end that highway traffic  
1939 may be relieved through the development of more efficient mass transit.

1940 Expenditures ~~of funds under the authority of~~ pursuant to this section shall be made from  
1941 funds available for the construction of state highways within the highway construction district in  
1942 which the transit facilities are wholly or partly located.

1943 The Board may ~~at its discretion~~ contract with the governing bodies ~~comprising~~  
1944 constituting a transportation district, or in its discretion, other local governing bodies, for the  
1945 accomplishment of a project to which funds have been allocated under the provisions of this  
1946 section. Whenever such projects are being financed by advance annual allocation of funds, the  
1947 Board may make such funds available to the contracting governing bodies in annual increments  
1948 ~~which that~~ may be used for other transit purposes until needed for the project for which  
1949 allocated; however, the Board may require bond or other satisfactory assurance of final  
1950 completion of the contract.

1951 The Board may also, at the request of local governing bodies, use funds allocated for  
1952 urban highways or secondary ~~roads~~ highways within their jurisdiction to accomplish the  
1953 purposes of this section.

1954           The General Assembly may, through the general appropriation act, provide for (i)  
1955 ~~provide for~~ limits on the amounts or purposes of allocations made under this section and (ii)  
1956 ~~provide for~~ the transfer of allocations from one eligible recipient to another.

1957           **Drafting note: Technical changes.**

1 Article 5.

2 Transportation Trust Fund.

3 **Drafting note: Existing sections concerning the Transportation Trust Fund are**  
4 **moved from Article 1.1, Allocation of Highway Funds, of Chapter 1 to create proposed**  
5 **Article 5 of Chapter 15.**

6 § ~~33.1-23.03:1~~ 33.2-1524. Transportation Trust Fund established.

7 There is hereby created in the Department of the Treasury a special nonreverting fund to  
8 be known as the Transportation Trust Fund, consisting of:

9 1. Funds remaining for highway construction purposes, among the ~~several~~ highway  
10 systems pursuant to § ~~33.1-23.1~~ 33.2-XXX.

11 2. ~~[Repealed.]~~

12 ~~3-~~The additional revenues generated by enactments of Chapters 11, 12, and 15 of the  
13 1986 Acts of Assembly, ~~1986~~ Special Session I, and designated for this fund.

14 ~~4-3-~~Tolls and other revenues derived from the projects financed or refinanced pursuant  
15 to this title ~~which that~~ are payable into the state treasury and tolls and other revenues derived  
16 from other transportation projects, which may include upon the request of the applicable  
17 appointed local governing body, as soon as their obligations have been satisfied, such tolls and  
18 revenue derived for transportation projects pursuant to ~~§ 33.1-253 (Chesapeake Bay Bridge and~~  
19 ~~Tunnel District) Chapter XX (§ 33.2-XXX et seq.)~~ and to the Richmond Metropolitan  
20 Authority, established in Chapter ~~70 XX~~ (§ ~~15.2-7000~~ 33.2-XXX et seq.) ~~of Title 15.2~~, or if the  
21 appointed local governing body requests refunding or advanced refunding by the Board and  
22 such refunding or advanced refunding is approved by the General Assembly. Such funds shall  
23 be held in separate subaccounts of the Transportation Trust Fund to the extent required by law  
24 or the Board.

25 ~~5- Tolls and other revenues derived from the Richmond Petersburg Turnpike, provided~~  
26 ~~that such funds shall be held in a separate subaccount of the Transportation Trust Fund and~~

27 ~~allocated as set forth in Chapter 574 of the Acts of Assembly of 1983 until expiration of that~~  
28 ~~Act.~~

29 ~~6.4.~~ Such other funds as may be appropriated by the General Assembly from time to  
30 time, and designated for ~~this fund~~ the Transportation Trust Fund.

31 ~~7.5.~~ All interest, dividends, and appreciation ~~which that~~ may accrue to the  
32 Transportation Trust Fund and the Highway Maintenance and ~~Construction~~ Operating Fund,  
33 ~~except that interest on funds becoming part of the Transportation Trust Fund under subdivision~~  
34 ~~1 and the Highway Maintenance and Construction Fund shall not become part of the~~  
35 ~~Transportation Trust Fund until July 1, 1988.~~

36 ~~8.6.~~ All amounts required by contract to be paid over to the Transportation Trust Fund.

37 ~~9.7.~~ Concession payments paid to the Commonwealth by a private entity pursuant to the  
38 Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et seq.).

39 **Drafting note: Existing subdivision 5 is stricken since Chapter 574 of the Acts of**  
40 **Assembly of 1983 has expired. A portion of existing subdivision 7 is stricken as obsolete.**  
41 **Technical changes are made.**

42 § ~~33.1-23.03:5~~ 33.2-1525. Administration of Transportation Trust Fund.

43 A. The Transportation Trust Fund shall be established on the books of the Comptroller  
44 so as to segregate the amounts appropriated to the Transportation Trust Fund and the amounts  
45 earned or accumulated by such ~~trust fund~~ Fund. No portion of ~~such trust fund~~ the Transportation  
46 Trust Fund shall be used for a purpose other than as provided ~~herein in this section.~~ Funds Any  
47 moneys remaining in the Transportation Trust Fund at the end of a biennium shall not revert to  
48 the general fund but shall remain in the ~~trust fund,~~ Transportation Trust Fund to be used for the  
49 purposes set forth in §§ ~~33.1-23.03:1~~ 33.2-XXX through ~~33.1-23.03:4~~ 33.2-XXX and shall  
50 accumulate interest and dividends throughout the existence of the ~~trust fund~~ Transportation  
51 Trust Fund. Whenever in the Board's opinion there are ~~funds~~ moneys in the Transportation Trust  
52 Fund in excess of the amount required to meet the current needs and demands of the  
53 transportation program, the Board may invest such excess funds in securities that, in its

54 judgment, will be readily convertible into money. Such securities may include, ~~but not be~~  
55 ~~limited to,~~ debentures and other government and corporate obligations; ~~;~~ common and preferred  
56 stocks limited to ~~thirty~~ 30 percent of total trust funds investments based on cost; ~~;~~ "prime quality"  
57 commercial paper, as defined and limited by § 2.2-4502; ~~;~~ bankers' acceptances; ~~;~~ bonds; ~~;~~ money  
58 market funds; ~~;~~ and overnight, term, and open repurchase agreements. The investment of moneys  
59 held in the Transportation Trust Fund shall be administered by the state treasury under  
60 guidelines adopted by the Board pursuant to this section.

61 The Treasurer may, at his option, manage such ~~funds, moneys~~ or hire professional  
62 outside investment counsel to manage part or all of such ~~funds moneys~~.

63 The selection of services related to the management, purchase, or sale of authorized  
64 investments shall be governed by the ~~foregoing~~ standard provided in this section and shall not  
65 be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

66 ~~§ 33.1-23.03:7. Liability exemption of officers and employees.~~

67 B. When investments are made in accordance with this section, no Board member,  
68 Board employee, Department of Transportation employee, Department of Rail and Public  
69 Transportation employee, or treasury official shall be personally liable for any loss therefrom in  
70 the absence of negligence, malfeasance, misfeasance, or nonfeasance.

71 **Drafting note: Technical changes are made, including removing the phrase "but**  
72 **not be limited to" based on § 1-218, which states: "'Includes' means includes, but not**  
73 **limited to." Existing § 33.1-23.03:7 is incorporated in this section as subsection B because**  
74 **it references investments made pursuant to this section.**

75 ~~§ 33.1-23.03:2~~ 33.2-1526. Commonwealth Space Flight Fund, Commonwealth Port  
76 Fund, Commonwealth Airport Fund, and Commonwealth Mass Transit Fund.

77 Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision ~~3 A~~  
78 2 of ~~§ 33.1-23.03:1~~ 33.2-XXX, an aggregate of 4.2 percent shall be set aside as the  
79 Commonwealth Port Fund as established in subdivision 2 a of § 58.1-638; an aggregate of 2.4  
80 percent shall be set aside as the Commonwealth Airport Fund as established in subdivision 3 of

81 § 58.1-638; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass  
82 Transit Fund as established in subdivision 4 a of § 58.1-638. Beginning with the  
83 Commonwealth's 2012-2013 fiscal year through the Commonwealth's 2016-2017 fiscal year,  
84 each fiscal year from the funds becoming part of the Transportation Trust Fund pursuant to  
85 subdivision ~~3~~ A 2 of § ~~33.1-23.03:1~~ 33.2-XXX the Comptroller shall transfer \$9.5 million to the  
86 Commonwealth Space Flight Fund. The remaining funds deposited into or held in the  
87 Transportation Trust Fund pursuant to subdivision ~~3~~ A 2 of § ~~33.1-23.03:1~~ 33.2-XXX, together  
88 with funds deposited pursuant to subdivisions A 1 and ~~6~~ 4 of § ~~33.1-23.03:1~~ 33.2-XXX, shall be  
89 expended for capital improvements including construction, reconstruction, maintenance, and  
90 improvements of highways according to the provisions of subsection C of § 33.1-23.1-B 33.2-  
91 XXX or to secure bonds issued for such purposes, as provided by the Board and the General  
92 Assembly.

93 **Drafting note: Technical changes.**

94 ~~§ 33.1-23.03:3.~~

95 **Drafting note: Repealed by Acts 1988, cc. 844, 903.**

96 ~~§ 33.1-23.03:8~~ 33.2-1527. Priority Transportation Fund established.

97 A. There is hereby created in the state treasury a special nonreverting fund to be known  
98 as the Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be  
99 established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain  
100 in the Fund and be credited to it. All funds as may be designated in the appropriation act for  
101 deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds  
102 shall include:

103 1. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all  
104 revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway  
105 Maintenance and Operating Fund established in § 33.2-XXX and (ii) the allocation to highway  
106 and mass transit improvement projects as set forth in § ~~33.1-23.03:2~~ 33.2-XXX, but not

107 including any amounts that are allocated to the Commonwealth Port Fund and the  
108 Commonwealth Airport Fund under such section;

109 2. All revenues deposited into the Fund pursuant to § 58.1-2531;

110 3. All revenues deposited into the Fund pursuant to subsection E of § 58.1-2289; and

111 4. Any other such funds as may be transferred, allocated, or appropriated.

112 All moneys in the Fund shall first be used for debt service payments on bonds or  
113 obligations for which the Fund is expressly required for making debt service payments, to the  
114 extent needed. The Fund shall be considered a part of the Transportation Trust Fund. Any  
115 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not  
116 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely  
117 for the purposes enumerated in subsection B. Expenditures and disbursements from the Fund  
118 shall be made by the State Treasurer on warrants issued by the Comptroller.

119 B. The ~~Commonwealth Transportation~~ Board shall use the Fund to facilitate the  
120 financing of priority transportation projects throughout the Commonwealth. The Board may use  
121 the Fund ~~either by~~ (i) ~~by~~ expending amounts therein on such projects directly; (ii) ~~by~~ payment  
122 to any authority, locality, commission, or other entity for the purpose of paying the costs  
123 thereof; or (iii) ~~by~~ using such amounts to support, secure, or leverage financing for such  
124 projects. No expenditures from or other use of amounts in the Fund shall be considered in  
125 allocating highway maintenance and construction funds under § ~~33.1-23.1~~ 33.2-XXX or  
126 apportioning Transportation Trust Fund funds under § 58.1-638; but shall be in addition thereto.  
127 The Board shall use the Fund to facilitate the financing of priority transportation projects as  
128 designated by the General Assembly; provided, ~~however,~~ that, at the discretion of the  
129 ~~Commonwealth Transportation~~ Board, funds allocated to projects within a transportation district  
130 may be allocated among projects within the same transportation district as needed to meet  
131 construction cash-flow needs.

132 C. Notwithstanding any other provision of this section, beginning July 1, 2007, no  
133 bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for

134 debt service payments or for the repayment of such bonds the revenues of the Fund, shall be  
135 issued or entered into, unless at the time of the issuance the revenues then in the Fund or  
136 reasonably anticipated to be deposited into the Fund pursuant to the law then in effect are by  
137 themselves sufficient to make 100 percent of the contractually required debt service payments  
138 on all such bonds, including any interest related thereto and the retirement of such bonds.

139 **Drafting note: Technical changes are made.**

140 § ~~33.1-23.03:9~~ 33.2-1528. Concession Payments Account.

141 A. Concession payments to the Commonwealth deposited into the Transportation Trust  
142 Fund pursuant to subdivision ~~9 A 7~~ of § ~~33.1-23.03:1~~ 33.2-XXX from qualifying transportation  
143 facilities developed and/or operated pursuant to the Public-Private Transportation Act of 1995  
144 (§ ~~56-556~~ 33.2-XXX et seq.) shall be held in a separate subaccount to be designated the  
145 "Concession Payments Account," ~~hereinafter referred to as~~ " (the Account,") together with all  
146 interest, dividends, and appreciation that accrue to the Account and that are not otherwise  
147 specifically directed by law or reserved by the Board for other purposes allowed by law.

148 B. The Board may make allocations from the Account upon such terms and subject to  
149 such conditions as the Board deems appropriate, to:

150 1. Pay or finance all or part of the costs of programs or projects, including ~~without~~  
151 ~~limitation~~, the costs of planning, operation, maintenance, and improvements incurred in  
152 connection with the acquisition and construction of projects, provided that allocations from the  
153 Account shall be limited to programs and projects that are reasonably related to or benefit the  
154 users of the qualifying transportation facility that was the subject of a concession pursuant to the  
155 Public-Private Transportation Act of 1995 (§ 33.2-XXX et seq.). The priorities of metropolitan  
156 planning organizations, planning district commissions, local governments, and transportation  
157 corridors shall be considered by the Board in making project allocations from moneys in the  
158 Account.

159 2. Repay funds from the Toll Facilities Revolving Account or the Transportation  
160 Partnership Opportunity Fund.

161           3. Pay the Board's reasonable costs and expenses incurred in the administration and  
162 management of the Account.

163           C. Concession payments to the Commonwealth for a qualifying transportation facility  
164 located within the boundaries of a rapid rail project for which a federal Record of Decision has  
165 been issued shall be held in a subaccount separate from the Concession Payments Account  
166 together with all interest, dividends, and appreciation that accrue to the subaccount. The Board  
167 may make allocations from the subaccount, as the Board deems appropriate, to:

168           1. Pay or finance all or part of the costs of planning, design, land acquisition, and  
169 improvements incurred in connection with the construction of such rapid rail project consistent  
170 with the issued federal Record of Decision, as may be revised from time to time; and

171           2. Upon determination by the Board that sufficient funds are or will be available to meet  
172 the schedule for construction of such rapid rail project, pay or finance all or part of the costs of  
173 planning, design, land acquisition, and improvements incurred in connection with other highway  
174 and public transportation projects within the corridor of the rapid rail project or within the  
175 boundaries of the qualifying transportation facility. In the case of highway projects, the Board  
176 shall follow an approval process generally in accordance with ~~§ 33.1-18~~ § 33.2-XXX.

177           D. The provisions of this section shall be liberally construed to the end that its beneficial  
178 purposes may be effectuated. Insofar as this provision is inconsistent with the provisions of any  
179 other general, special, or local law, this provision shall be controlling.

180           E. If any provision of this section or the application thereof to any person or  
181 circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not  
182 affect other provisions or applications of this section that can be given effect without the invalid  
183 provision or application, and to this end the provisions of this section are declared to be  
184 severable.

185           **Drafting note: Technical changes are made.**

186           ~~§ 33.1-23.03:4~~ § 33.2-1529. Toll Facilities Revolving Account.

187 A. All definitions of terms in this section shall be as set forth in the Public-Private  
188 Transportation Act of 1995 (§ 33.2-XXX et seq.).

189 B. Subject to any obligations to existing bondholders, but notwithstanding §§ 2.2-1806  
190 and 58.1-13, funds deposited into the Transportation Trust Fund pursuant to subdivision ~~4~~ A 3  
191 of § ~~33.1-23.03-1~~ 33.2-XXX shall be held in a separate subaccount to be designated the "Toll  
192 Facilities Revolving Account," ~~hereinafter referred to as "the Account,"~~ (the Account) together  
193 with all interest, dividends, and appreciation ~~which that~~ accrue to the Transportation Trust Fund  
194 and ~~which that~~ are not otherwise specifically directed by law or reserved by the Board in the  
195 resolution authorizing issuance of bonds to finance toll facilities. In addition, any funds received  
196 from the federal government or any agency or instrumentality thereof that, pursuant to federal  
197 law, may be made available, as loans or otherwise, to private persons or entities for  
198 transportation purposes, hereinafter referred to as "federal funds," shall be deposited in a  
199 segregated subaccount within the Account. Payments received with respect to any loan made  
200 from such segregated subaccount pursuant to subdivision D 2 ~~of subsection B of this section~~  
201 shall also be deposited into such segregated subaccount in the Account.

202 ~~A1-C.~~ User fees collected in excess of the annual debt service, operations, and  
203 maintenance expenses; and necessary administrative costs including any obligations to the ~~Toll~~  
204 ~~Facilities Revolving~~ Account and any other obligations for qualifying facilities with respect to  
205 which an agency of the Commonwealth is the ~~Responsible Public Entity under the Public-~~  
206 ~~Private Transportation Act of 1995 (§ 56-556 et seq.)~~ responsible public entity shall be  
207 deposited and held in the "Regional Toll Facilities Revolving Subaccount," ~~hereinafter referred~~  
208 ~~to as the~~ (the Regional Account), together with all interest, dividends, and appreciation for  
209 use within the metropolitan planning organization region within which the facility exists.  
210 Payments received with respect to any loan made from such Regional Account pursuant to  
211 subdivision D 3 ~~of subsection B of this section~~ shall also be deposited into the Regional  
212 Account.

213 ~~B-D.~~ The Board may make allocations upon such terms and subject to such conditions  
214 as the Board deems appropriate, from the following funds for the following purposes:

215 1. From any funds in the Account, exclusive of those in the Regional Account, to pay or  
216 finance all or part of the costs, including the cost of planning, operation, maintenance, and  
217 improvements, incurred in connection with the acquisition and construction of projects financed  
218 in whole or in part as toll facilities or to refinance existing toll facilities, provided that any such  
219 funds allocated from the Account for a planned or operating toll facility shall be considered as  
220 an advance of funding for which the Account shall be reimbursed;

221 2. From funds in the segregated subaccount in the Account into which federal funds are  
222 deposited in conjunction with the Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-  
223 XXX et seq.) and pursuant to the terms of a comprehensive agreement between a responsible  
224 public entity and a private operator as provided for in that act:

225 a. To make a loan to such operator to pay any cost of a qualifying transportation facility,  
226 provided that: (i) the operator's return on its investment is limited to a reasonable rate and (ii)  
227 such loan is limited to a reasonable term; or

228 b. To pay the Commonwealth's or its agency's portion of costs incurred or to be incurred  
229 in accordance with a comprehensive agreement with respect to a transportation facility.

230 ~~All definitions of terms shall be as provided in the Public-Private Transportation Act of~~  
231 ~~1995;~~

232 3. From funds in the Regional Account:

233 a. To pay or finance all or part of the costs, including the cost of planning, operation,  
234 maintenance, and improvements incurred in connection with the acquisition and construction of  
235 projects financed in whole or in part as toll facilities or to refinance existing toll facilities,  
236 provided that (i) allocations from the Regional Account shall be limited to projects located  
237 within the same metropolitan planning organization region as the facility ~~which that~~ generated  
238 the excess revenue and (ii) any such funds allocated from the Regional Account for a planned or

239 operating toll facility shall be considered as an advance of funding for which the Regional  
240 Account shall be reimbursed; or

241 b. To pay the Commonwealth's, its agency's, or its political subdivision's costs incurred  
242 or to be incurred in accordance with a comprehensive agreement with respect to a transportation  
243 facility within the same metropolitan planning organization region as the facility ~~which that~~  
244 generated the excess revenue. ~~All definitions of terms shall be as provided in the Public-Private~~  
245 ~~Transportation Act of 1995~~; and

246 4. From any funds in the Account or Regional Account, to pay the Board's reasonable  
247 costs and expenses incurred in (i) the administration and management of the Account, (ii) its  
248 program of financing or refinancing costs of toll facilities, and (iii) the making of loans and  
249 paying of costs described in subdivisions 1 and 2 ~~of this subsection~~.

250 ~~C-E.~~ The Board may transfer from the Account to the Transportation Trust Fund for  
251 allocation pursuant to subsection ~~B-C~~ of § ~~33.1 23.1 33.2-XXX~~ any interest revenues and,  
252 subject to applicable federal limitations, federal funds not committed by the Board to the  
253 purposes provided for in subsection ~~B of this section D~~.

254 ~~D-F.~~ The provisions of this section shall be liberally construed to the end that its  
255 beneficial purposes may be effectuated. Insofar as this provision is inconsistent with the  
256 provisions of any other general, special, or local law, this provision shall be controlling.

257 ~~E-G.~~ If any provision of this section or the application thereof to any person or  
258 circumstances is held invalid by a court of competent jurisdiction, invalidity shall not affect  
259 other provisions or applications of this section that can be given effect without the invalid  
260 provision or application, and to this end the provisions of this section are declared to be  
261 severable.

262 **Drafting note: The repeated provision stating that definitions are as defined in the**  
263 **Public-Private Transportation Act is moved to the beginning of the section. Technical**  
264 **changes are also made.**

265 Article 6.

266 Highway Maintenance and Operating Fund.

267 **Drafting note: Proposed Article 6 of Chapter 15 formally establishes in the Code**  
268 **the Highway Maintenance and Operating Fund, which is mentioned by name in multiple**  
269 **titles of the Code. This one-section article consolidates information on the Fund's revenue**  
270 **sources as provided in proposed Title 33.2 and in Titles 46.2 (Motor Vehicles) and 58.1**  
271 **(Taxation) and provides a reference when the Fund is referred to in the Code.**

272 § 33.2-1530. Highway Maintenance and Operating Fund established.

273 There is hereby created in the state treasury a special nonreverting fund to be known as  
274 the Highway Maintenance and Operating Fund, hereafter referred to as "the Fund." The Fund  
275 shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the  
276 end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

277 The sources of funds for the Highway Maintenance and Operating Fund shall be paid  
278 into the state treasury and credited to the Fund and, in addition to all funds appropriated by the  
279 General Assembly, includes the following:

280 1. Revenues generated pursuant to § 33.2-213 [33.1-12 sub 4];

281 2. Civil penalties collected pursuant to § 33.2-XXX [33.1-206.1 update];

282 3. Civil penalties collected pursuant to § 33.2-XXX [33.1-373 update];

283 4. Civil penalties collected pursuant to § 33.2-XXX [33.1-377.1 update];

284 5. Permit fees as outlined in § 46.2-652.1;

285 6. Revenues generated pursuant to § 46.2-702.1;

286 7. Permit fees pursuant to §§ 46.2-1128, 46.2-1140.1, 46.2-1142.1, 46.2-1143, 46.2-  
287 1148, and 46.2-1149.1;

288 8. Applicable portions of emissions inspection fees from on-road emissions inspectors as  
289 designated in § 46.2-1182;

290 9. Revenues from subsection G of § 58.1-638 and § 58.1-638.3;

291 10. Revenues from subdivision 2 of § 58.1-815.4;

292 11. Revenues generated pursuant to subsection B of § 58.1-2249;

293 12. Revenues as apportioned in subsection E of § 58.1-2289;

294 13. Revenues as outlined in subsection A of § 58.1-2425; and

295 14. Taxes and fees pursuant to § 58.1-2701.

296 **Drafting note: This proposed section formally establishing the already existing**  
297 **Highway Maintenance and Operating Fund consolidates information on revenue sources**  
298 **of the Fund from sections in proposed Title 33.2 and from Titles 46.2 (Motor Vehicles) and**  
299 **58.1 (Taxation).**

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~~Article 4.~~

~~Limited Access Highways.~~

CHAPTER 4.

LIMITED ACCESS HIGHWAYS; SCENIC HIGHWAYS AND VIRGINIA BYWAYS;  
HIGHWAYS OVER DAMS.

**Drafting note: Placed together in this proposed chapter in Subtitle II are existing articles Limited Access Highways, Article 4 of Chapter 1; Scenic Highways and Virginia Byways, Article 5 of Chapter 1; and Highways over Dams, Article 14 of Chapter 1.**

~~§ 33.1-57 33.2-400.~~ "Limited access highway" defined Definitions.

~~A limited-~~ As used in this chapter, unless the context requires a different meaning:

"Limited access highway ~~is defined as~~ " means a highway especially designed for through traffic, over which abutters have no easement or right of light, air, or access ~~to~~ by reason of the fact that their property abuts upon such limited access highway.

"Scenic highway" means a highway, designated as such by the Board, within a protected scenic corridor located, designed, and constructed so as to preserve and enhance the natural beauty and cultural value of the countryside.

"Virginia byway" means a highway, designated as such by the Board, having relatively high aesthetic or cultural value, leading to or within areas of historical, natural, or recreational significance.

**Drafting note: Definitions in combined existing Articles 4, 5, and 14 of Chapter 1 are relocated to a new definitions section at the beginning of this proposed chapter, applicable throughout the chapter. Technical changes are made.**

~~§ 33.1-58 33.2-401.~~ Power and authority of Commonwealth Transportation Board relating to limited access highways.

The ~~Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the use of limited access highways; in the same manner in which it is now or may be authorized to plan, designate,

28 | acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the  
29 | use of other highways within ~~this~~ the Commonwealth. The Board shall also have any and all  
30 | other additional authority and power relative to other highways, which shall include the right to  
31 | acquire by purchase, eminent domain, grant, or dedication title to such lands or rights-of-way  
32 | for such limited access highways.

33 | Notwithstanding any other provisions of this Code, any highway, street, or portion  
34 | thereof, to which access rights of abutters have been acquired by the ~~Commonwealth~~  
35 | ~~Transportation~~ Board and which is subsequently incorporated into the street system of a city or  
36 | town by any method, shall remain limited access until and unless the governing body of the city  
37 | or town, after securing the approval of the ~~Commonwealth Transportation~~ Board, acts to  
38 | discontinue such limited access feature.

39 | **Drafting note: Technical changes are made.**

40 | § ~~33.1-59~~ 33.2-402. Designating existing highway as limited access highway;  
41 | extinguishing easements of access.

42 | The Board may designate all or any part of an existing highway as a limited access  
43 | highway. When an existing highway is so designated, the Board shall, where necessary,  
44 | extinguish all existing easements of access, light, or air.

45 | **Drafting note: Technical changes are made.**

46 | § ~~33.1-60~~ 33.2-403. Business enterprises restricted on limited access highway right-of-  
47 | way.

48 | No commercial establishment or business enterprise shall be constructed or located upon  
49 | any right-of-way of any limited access highway.

50 | **Drafting note: Technical changes are made.**

51 | § ~~33.1-61~~ 33.2-404. ~~Parallel service~~ Service roads parallel to limited access highways;  
52 | standards for access, service, etc., ~~roads~~.

53 | The Department may construct service roads parallel to a limited access highway in  
54 | order to provide access at designated points for property owners abutting on the limited access

55 highway and after the construction of such service roads shall maintain and regulate traffic over  
56 them.

57 The construction or alteration of any access, feeder, or service road ~~which that~~ is to serve  
58 properties isolated by construction of a limited access highway shall meet all minimum state  
59 standards or the standards of the cities or towns with a population of more than 3,500  
60 ~~population~~, or of counties ~~which that~~ maintain their own road networks, as provided for by  
61 ordinance, whichever is more strict.

62 **Drafting note: Existing § 33.1-61 was amended by Chapters 585 and 646 of the 2013**  
63 **Acts of Assembly and those changes are reflected in the existing language here. Technical**  
64 **changes are made.**

65 ~~Article 5-~~

66 ~~Scenic Highways and Virginia Byways-~~

67 **Drafting note: Existing Article 5 of Chapter 1 is combined with existing Articles 4**  
68 **and 14 of Chapter 1 and placed in this proposed Chapter 4.**

69 § ~~33.1-62~~ 33.2-405. Designation of scenic highways and Virginia byways.

70 The ~~Commonwealth Transportation~~ Board is ~~hereby~~ authorized to designate any  
71 highway as a scenic highway or as a Virginia byway. This designation shall be made in  
72 cooperation with the Director of the Department of Conservation and Recreation. Prior to  
73 designation, the local governing body and local planning commission, if any, in each county or  
74 city wherein the proposed scenic highway or Virginia byway is located shall be given notice  
75 and, upon request by any of the local governing bodies, the ~~Commonwealth Transportation~~  
76 Board shall hold a hearing in one of the counties or cities wherein the proposed scenic highway  
77 or Virginia byway is located.

78 **Drafting note: Technical changes are made.**

79 § ~~33.1-63~~ 33.2-406. ~~"Virginia byway" defined; preference in selecting~~ Selecting Virginia  
80 byways.

81 ~~For the purposes of this article, a "Virginia byway" is defined as a road, designated as~~  
82 ~~such by the Commonwealth Transportation Board, having relatively high aesthetic or cultural~~  
83 ~~value, leading to or within areas of historical, natural, or recreational significance.~~ In selecting a  
84 Virginia byway, the ~~Commonwealth Transportation~~ Board and the Director of the Department  
85 of Conservation and Recreation shall give preference to corridors controlled by zoning or  
86 otherwise, so as to reasonably protect the aesthetic or cultural value of the highway.

87 **Drafting note: The definition of "Virginia byway" is relocated to a new definitions**  
88 **section at the beginning of this proposed chapter. Technical changes are made.**

89 ~~§ 33.1-64. "Scenic highway" defined.~~

90 ~~For the purpose of this article, a "scenic highway" is defined as a road designated as such~~  
91 ~~by the Commonwealth Transportation Board, within a protected scenic corridor located,~~  
92 ~~designed, and constructed so as to preserve and enhance the natural beauty and cultural value of~~  
93 ~~the countryside.~~

94 **Drafting note: Repeal; the definition of "scenic highway" is relocated to a new**  
95 **definitions section at the beginning of this proposed chapter.**

96 ~~§ 33.1-65~~ 33.2-407. Signs Signage of scenic highways and Virginia byways.

97 When the ~~Commonwealth Transportation~~ Board designates a highway as a scenic  
98 highway or as a Virginia byway, it shall be appropriately signed as such.

99 **Drafting note: Technical changes are made.**

100 ~~§ 33.1-66~~ 33.2-408. Acquisition of adjacent land.

101 When the ~~Commonwealth Transportation~~ Board has designated a highway as a Virginia  
102 byway or as a scenic highway, the Commissioner of Highways may acquire by gift or purchase  
103 such land, or interests therein, of primary importance for the preservation of natural beauty  
104 adjacent to Virginia byways or scenic highways.

105 **Drafting note: Technical changes are made.**

106 ~~Article 14.~~

107 ~~Roads Over Dams.~~

108 **Drafting note: Existing Article 14 of Chapter 1 is combined with existing Articles 4**  
109 **and 5 of Chapter 1 and placed in this proposed Chapter 4.**

110 § ~~33.1-176~~ 33.2-409. Duty of owner or occupier of dam over which state highway  
111 passes; penalty.

112 Every owner or occupier of a dam over which a state highway passes shall, ~~so far as any~~  
113 ~~state highway passes over the same~~, keep such dam in good order, at least ~~twelve~~ 12 feet wide at  
114 the top, and also keep in good order the substructure of a bridge of like width over the pier  
115 heads, floodgates, or any wastecut through or around the dam; provided, ~~however~~, that when  
116 ~~the above has these requirements have~~ been ~~done met~~, the superstructure of any such bridge  
117 shall be maintained by the Commissioner of Highways. The Commissioner of Highways shall  
118 inspect all such bridges and report any needed repairs to the owner in writing ~~needed repairs~~. If  
119 such owner fails to comply with the provisions of this ~~article chapter~~, he ~~shall be deemed is~~  
120 guilty of a misdemeanor ~~and, upon conviction thereof, shall be fined two dollars punishable by a~~  
121 fine of \$2 for every such failure of ~~twenty-four~~ 24 hours. ~~But However~~, if a milldam is carried  
122 away or destroyed by flood or any other extraordinary natural cause, the owner or occupier  
123 thereof shall not be subject to such fine until one month after any mill, operated in whole or in  
124 part by water impounded by such dam, has been put into operation by such waterpower.

125 **Drafting note: No section in existing Article 14 has been amended since this title**  
126 **was last revised in 1970; at that time, no section in the article had been amended since the**  
127 **Code of 1950. Technical changes and modernization of language are made.**

128 § ~~33.1-177~~ 33.2-410. Duties of Commissioner of Highways related to dams over which a  
129 state highway passes.

130 The Commissioner of Highways may, at his own cost and expense, widen or strengthen  
131 any ~~such~~ dam or bridge over which a state highway passes to a sufficient width ~~sufficient~~  
132 ~~properly~~ to provide properly for ~~the~~ traffic ~~which that~~ uses that section of ~~road highway~~ of  
133 which such dam or bridge forms a part. The Commissioner of Highways shall maintain the ~~road~~  
134 highway surface on such sections of ~~road highway~~.

135           **Drafting note: No section in existing Article 14 has been amended since this title**  
136 **was last revised in 1970; at that time, no section in the article had been amended since the**  
137 **Code of 1950. Technical changes and modernization of language are made.**

138           § ~~33.1-178~~ 33.2-411. Raising or lowering floodgates.

139           The owner or occupier of a dam shall raise or lower the floodgates on such dam when  
140 there is an impending flood in order to reduce the level of the water in the pond, and when it  
141 comes to the attention of the Commissioner of Highways, ~~or his authorized agent,~~ that this has  
142 not been done, or that the owner is unable to reach the spillway in order to do so, the  
143 Commissioner, ~~or his authorized agent,~~ of Highways may perform this duty.

144           **Drafting note: No section in existing Article 14 has been amended since this title**  
145 **was last revised in 1970; at that time, no section in the article had been amended since the**  
146 **Code of 1950. References to "his authorized agent" are not necessary because the**  
147 **Commissioner of Highways is authorized to delegate his authority as chief executive**  
148 **officer; see proposed § 33.2-201. Technical changes are made.**

149           § ~~33.1-179~~ 33.2-412. Reconstruction if dam is washed out.

150           ~~In case such~~ If a dam is washed out and the owner refuses to replace the ~~same dam,~~ the  
151 Commissioner of Highways, with or without the consent of such owner or occupier, may  
152 construct a highway across the ~~same; dam,~~ but in case the owner desires to replace the dam and  
153 use the pond, he shall be permitted to do so by paying to the Commissioner ~~one half of~~  
154 Highways one-half of the cost and expenses of replacing the dam, up to a width of ~~twelve~~ 12  
155 feet at the top, and the difference between the cost, if any, of replacing the bridge normally  
156 required to carry the water of the stream and the cost of a bridge ~~which that~~ includes floodgates  
157 and adequate spillway.

158           **Drafting note: No section in existing Article 14 has been amended since this title**  
159 **was last revised in 1970; at that time, no section in the article had been amended since the**  
160 **Code of 1950. Technical changes are made.**

161           § ~~33.1-180~~ 33.2-413. When larger spillway required.

162 In case the earthen portion of a dam has been washed away and it is determined by the  
163 Commissioner of Highways that the washout was caused by a spillway of insufficient opening  
164 to carry floodwater, the dam shall not be restored for the purpose of impounding water unless  
165 the owner or occupier agrees with the Commissioner ~~for~~ of Highways to the construction of a  
166 spillway with adequate opening, conforming to plans and specifications of the Department ~~of~~  
167 Transportation. In the event that such construction is required, the Commissioner of Highways  
168 shall be responsible for such part of the cost as would be necessary to provide a bridge with  
169 sufficient opening to carry the floodwater of the stream, and the owner or occupier of the dam  
170 shall be required to pay the difference in cost, if any, of providing adequate floodgates and  
171 spillways in addition to the bridge.

172 **Drafting note: No section in existing Article 14 has been amended since this title**  
173 **was last revised in 1970; at that time, no section in the article had been amended since the**  
174 **Code of 1950. Technical changes are made.**

175 § ~~33.1-181~~ 33.2-414. ~~Article applicable~~ Application to county roads.

176 ~~The foregoing sections of this article Sections 33.1-176 through 33.1-180 (Sections 33.2-~~  
177 ~~XXX through 33.2-XXX)~~ shall also apply to dams, ~~and to the owners and occupiers thereof~~ over  
178 which pass public roads ~~which that~~ are not in the ~~State Highway System primary~~ or secondary  
179 state highway system ~~of state highways, and to the owners and occupiers thereof~~. As to any such  
180 dam and the owner or occupier thereof, the powers ~~hereinabove in this article~~ conferred and  
181 imposed upon the Commissioner of Highways in §§ 33.2-XXX through 33.2-XXX shall be  
182 vested in and imposed upon the ~~board of supervisors or other~~ governing body of the county in  
183 which such dam is located.

184 **Drafting note: No section in existing Article 14 has been amended since this title**  
185 **was last revised in 1970; at that time, no section in the article had been amended since the**  
186 **Code of 1950. Technical changes are made.**

1 CHAPTER 5.

2 HIGH-OCCUPANCY VEHICLE LANES AND HIGH-OCCUPANCY TOLL LANES.

3 **Drafting note: Relevant sections on high-occupancy vehicle lanes and high-**  
4 **occupancy traffic lanes are combined in a new chapter and placed in Subtitle II, Modes of**  
5 **Transportation.**

6 ~~Article 3.1.~~

7 ~~High Occupancy Toll Lanes.~~

8 **Drafting note: This article on high-occupancy toll lanes is combined with sections**  
9 **on high-occupancy vehicle lanes to create one chapter in proposed Title 33.2.**

10 ~~§ 33.1-56.1~~ 33.2-500. Definitions.

11 ~~For purposes of this article~~ As used in this chapter:

12 ~~"Board" means the Commonwealth Transportation Board;~~

13 "High-occupancy requirement" means the number of persons required to be traveling in  
14 a vehicle for the vehicle to use HOT lanes without the payment of a toll. Emergency vehicles,  
15 law-enforcement vehicles using HOT lanes in the performance of their duties, which shall not  
16 include the use of such vehicles for commuting to and from the ~~work place~~ workplace, and mass  
17 transit vehicles and commuter buses shall meet the high-occupancy requirement for HOT lanes,  
18 regardless of the number of occupants in the vehicle~~;~~.

19 "High-occupancy toll lanes" or "HOT lanes" means a portion of a highway containing  
20 one or more travel lanes separated from other lanes~~;~~ that has an electronic toll collection system,  
21 provides for free passage by vehicles that meet the high-occupancy requirement, and contains a  
22 photo-enforcement system for use in such electronic toll collection. HOT lanes shall not be a  
23 "toll facility" or "HOV lanes" for the purposes of any other provision of law or regulation~~;~~.

24 "HOT lanes operator" means the operator of the facility containing HOT lanes, which  
25 may include the ~~Virginia~~ Department of Transportation or some other entity~~;~~.

26 "High-occupancy vehicle lanes" or "HOV lanes" means a portion of a highway  
27 containing one or more travel lanes for the travel of high-occupancy vehicles or buses as  
28 designated pursuant to § 33.1-42 [33.2-xxx].

29 "Mass transit vehicles" and "commuter buses" ~~mean~~ means vehicles providing a  
30 scheduled transportation service to the general public. Such vehicles shall comprise nonprofit,  
31 publicly or privately owned or operated transportation services, programs, or systems that may  
32 be funded pursuant to § 58.1-638~~;~~.

33 "Owner" means the registered owner of a vehicle on record with the Department of  
34 Motor Vehicles~~;~~ or with the equivalent agency in another state. "Owner" does not mean a  
35 vehicle rental or vehicle leasing company~~;~~.

36 "Photo-enforcement system" means a sensor installed in conjunction with a toll  
37 collection device to detect the presence of a vehicle that automatically produces one or more  
38 photographs, one or more microphotographs, a videotape, or other recorded images of each  
39 vehicle's license plate at the time it is detected by the toll collection device~~;~~ ~~and~~.

40 "Unauthorized vehicle" means a motor vehicle that is restricted from use of the HOT  
41 lanes pursuant to subdivision ~~D-1 X~~ of § ~~33.1-56.3~~ 33.2-XXX.

42 **Drafting note: Existing § 33.1-56.1 was amended by Chapter 195 of the 2013 Acts of**  
43 **Assembly and those changes are shown in the existing language here. The definition of**  
44 **Board is stricken and moved to the general definitions section in proposed § 33.2-100.**  
45 **Technical changes are made.**

46 § ~~33.1-46.2~~ 33.2-501. Designation of high-occupancy vehicle lanes; use of such lanes;  
47 penalties.

48 A. In order to facilitate the rapid and orderly movement of traffic to and from urban  
49 areas during peak traffic periods, the ~~Commonwealth Transportation~~ Board may designate one  
50 or more lanes of any highway in the ~~interstate~~ Interstate System, primary state highway system,  
51 or secondary state highway ~~systems system~~ as ~~high-occupancy vehicle lanes, hereinafter~~  
52 ~~referred to in this section as~~ HOV lanes. When lanes have been so designated and have been

53 | appropriately marked with ~~such~~-signs or other markers as the Board may prescribe, they shall be  
54 | reserved during periods designated by the Board for the exclusive use of buses and high-  
55 | occupancy vehicles. Any local governing body may also, with respect to highways under its  
56 | exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of  
57 | such ~~HOV~~-lanes. Any highway for which the ~~local jurisdiction~~ locality receives highway  
58 | maintenance funds pursuant to § ~~33.1-41.1~~ 33.2-XXX shall be deemed to be within the  
59 | exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes  
60 | shall be reserved for high-occupancy vehicles of a specified number of occupants as determined  
61 | by the Board or, for HOV lanes designated by a local governing body, by that local governing  
62 | body. Notwithstanding the foregoing provisions of this section, no designation of any lane or  
63 | lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

- 64 | 1. Emergency vehicles such as ~~fire-fighting~~ firefighting vehicles, ambulances, and rescue  
65 | squad vehicles<sub>;</sub>
- 66 | 2. Law-enforcement vehicles<sub>;</sub>
- 67 | 3. Motorcycles<sub>;</sub>
- 68 | 4. a. Transit and commuter buses designed to transport 16 or more passengers, including  
69 | the driver<sub>;</sub>
- 70 | b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-  
71 | 2096, 46.2-2099.4, or 46.2-2099.44<sub>;</sub>
- 72 | 5. Vehicles of public utility companies operating in response to an emergency call<sub>;</sub>
- 73 | 6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-  
74 | 749.3, provided such use is in compliance with federal law<sub>;</sub>
- 75 | 7. Taxicabs having two or more occupants, including the driver<sub>;</sub> or
- 76 | 8. (Contingent effective date) Any active duty military member in uniform who is  
77 | utilizing Interstate ~~Route~~ 264 and Interstate ~~Route~~ 64 for the purposes of traveling to or from a  
78 | military facility in the Hampton Roads Planning District.

79 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and  
80 HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible  
81 or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above  
82 the affected portion of highway.

83 The Commissioner of ~~VDOF~~ Highways shall implement a program of the HOV  
84 facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This  
85 program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes  
86 to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs  
87 such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The  
88 HOV restrictions for the facility ~~will~~ shall be reinstated when the general lane is no longer  
89 blocked and is available for use.

90 The Commissioner of Highways shall maintain necessary records to evaluate the effects  
91 of such openings on the operation of the general lanes and the HOV lanes. He shall report on the  
92 effects of this program. This program will terminate if the Federal Highway Administration  
93 requires repayment of any federal highway construction funds because of the program's impact  
94 on the HOV facilities in Hampton Roads.

95 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local  
96 governing body ~~as the case may be,~~ shall specify the hour or hours of each day of the week  
97 during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at  
98 whatever intervals along the lanes the Board or local governing body deems appropriate. Any  
99 person driving a motor vehicle in a designated HOV lane in violation of this section ~~shall be is~~  
100 guilty of a traffic infraction, which shall not be a moving violation, and on conviction shall be  
101 fined \$100. However, violations committed within the boundaries of Planning District ~~Eight~~ 8  
102 shall be punishable as follows:

103 1. For a first offense, by a fine of \$125;

104 2. For a second offense within a period of five years from a first offense, by a fine of  
105 \$250;

106           3. For a third offense within a period of five years from a first offense, by a fine of \$500;

107           and

108           4. For a fourth or subsequent offense within a period of five years from a first offense,

109           by a fine of \$1,000.

110           Upon a conviction under this section, the court shall furnish to the Commissioner of the  
111           Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such  
112           conviction, which shall become a part of the person's driving record. Notwithstanding the  
113           provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this  
114           section; except that persons convicted of second, third, fourth, or subsequent violations within  
115           five years of a first offense committed in Planning District ~~Eight~~ 8 shall be assessed three  
116           demerit points for each such violation.

117           C. In the prosecution of an offense, committed in the presence of a law-enforcement  
118           officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of  
119           high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was  
120           operated in violation of this section, together with proof that the defendant was at the time of  
121           such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable  
122           presumption that such registered owner of the vehicle was the person who committed the  
123           violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in  
124           open court under oath that he was not the operator of the vehicle at the time of the violation. A  
125           summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such  
126           rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or  
127           leasing company.

128           D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of  
129           this section is served in any ~~county, city, or town~~ locality, it may be executed by mailing by  
130           first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records  
131           of the Department of Motor Vehicles. If the summoned person fails to appear on the date of

132 return set out in the summons mailed pursuant to this section, the summons shall be executed in  
133 the manner set out in § 19.2-76.3.

134 No proceedings for contempt or arrest of a person summoned by mailing shall be  
135 instituted for his failure to appear on the return date of the summons.

136 E. Notwithstanding § ~~33.1-252~~ 33.2-XXX, high-occupancy vehicles having three or  
137 more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault  
138 Expressway (Dulles Toll Road) without paying a toll.

139 F. Notwithstanding the contrary provisions of this section, the following conditions shall  
140 be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be  
141 changed to HOV-3 or any more restrictive designation:

142 1. The Department of Transportation shall publish a notice of its intent to change the  
143 existing designation and also immediately provide similar notice of its intent to all members of  
144 the General Assembly representing districts that touch or are directly impacted by traffic on  
145 Interstate Route 66.

146 2. The Department of Transportation shall hold public hearings in the corridor to receive  
147 comments from the public.

148 3. The Department of Transportation shall make a finding of the need for a change in  
149 such designation, based on public hearings and its internal data, and present this finding to the  
150 ~~Commonwealth Transportation~~ Board for approval.

151 4. The ~~Commonwealth Transportation~~ Board shall make written findings and a decision  
152 based upon the following criteria:

153 a. Is changing the HOV-2 designation to HOV-3 in the public interest?

154 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3  
155 will facilitate the flow of traffic on Interstate Route 66?

156 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air  
157 Act Amendments of 1990?

158 ~~G. [Repealed.]~~

159           **Drafting note: Language is added in subsection A clarifying to whom the**  
160 **Commissioner of Highways has to report. The definition of locality in § 1-221 of the Code**  
161 **of Virginia as it applies Code-wide replaces "county, city, or town" in subsection D.**  
162 **Technical changes are made.**

163           § ~~33.1-56.2~~ 33.2-502. Designation of HOT lanes.

164           The Board may designate one or more lanes of any highway, including lanes that may  
165 previously have been designated HOV lanes under § ~~33.1-46.2~~ 33.2-XXX, in the ~~interstate~~  
166 ~~system of highways~~ Interstate System, primary state highway ~~system of highways~~, or ~~national~~  
167 ~~highway system~~ National Highway System, or any portion thereof, as ~~high-occupancy toll lanes,~~  
168 ~~or~~ HOT lanes. In making HOT lanes designations, the Board shall also specify the high-  
169 occupancy requirement and conditions for use of such HOT lanes; or may authorize the  
170 Commissioner of Highways to make such determination consistent with the terms of a  
171 comprehensive agreement executed pursuant to § ~~56-566~~ 33.2-XXX. The high-occupancy  
172 requirement for a HOT lanes facility constructed or operated as a result of the Public-Private  
173 Transportation Act (§ ~~56-556~~ 33.2-XXX et seq.) shall not be less than three.

174           **Drafting note: Technical changes.**

175           § ~~33.1-56.3~~ 33.2-503. HOT lanes enforcement.

176           Any person operating a motor vehicle on designated HOT lanes shall make  
177 arrangements with the HOT lanes operator for payment of the required toll prior to entering  
178 such HOT lanes. The driver of a vehicle who enters the HOT lanes in an unauthorized vehicle,  
179 in violation of the conditions for use of such HOT lanes established pursuant to § ~~33.1-56.2~~  
180 33.2-XXX, without payment of the required toll; or without having made arrangements with the  
181 HOT lanes operator for payment of the required toll; shall have committed a violation of this  
182 section, which may be enforced in the following manner:

183           ~~A-1.~~ A-1. On a form prescribed by the Supreme Court, a summons for civil violation of this  
184 section may be executed by a law-enforcement officer, when such violation is observed by such

185 officer. The form shall contain the option for the driver of the vehicle to prepay ~~all penalties, the~~  
186 unpaid toll, and all penalties, administrative fees, and costs.

187 ~~B.1.2.~~ a. A HOT lanes operator shall install and operate, or cause to be installed or  
188 operated, a photo-enforcement system at locations where tolls are collected for the use of such  
189 HOT lanes.

190 ~~2.~~ b. A summons for civil violation of this section may be executed pursuant to this  
191 ~~subsection~~ subdivision, when such violation is evidenced by information obtained from a photo-  
192 enforcement system as defined in this ~~article~~ chapter. A certificate, sworn to or affirmed by a  
193 technician employed or authorized by the HOT lanes operator, or a facsimile of such a  
194 certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded  
195 images produced by a photo-enforcement system, shall be prima facie evidence of the facts  
196 contained therein. Any photographs, microphotographs, videotape, or other recorded images  
197 evidencing such a violation shall be available for inspection in any proceeding to adjudicate the  
198 liability for such violation under this ~~subsection~~ subdivision. Any vehicle rental or vehicle  
199 leasing company, if named in a summons, shall be released as a party to the action if it provides  
200 to the HOT lanes operator a copy of the vehicle rental agreement or lease or an affidavit  
201 identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon  
202 receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the renter or  
203 lessee identified therein. Release of this information shall not be deemed a violation of any  
204 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et  
205 seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

206 ~~3.~~ c. On a form prescribed by the Supreme Court, a summons issued under this  
207 ~~subsection~~ subdivision may be executed pursuant to § 19.2-76.2. Such form shall contain the  
208 option for the driver or registered owner to prepay ~~all penalties, the~~ unpaid toll, and all penalties,  
209 administrative fees, and costs. HOT lanes operator personnel or their agents mailing such  
210 summons shall be considered conservators of the peace for the sole and limited purpose of  
211 mailing such summons. Notwithstanding the provisions of § 19.2-76, a summons for a violation

212 of this section may be executed by mailing by first-class mail a copy thereof to the address of  
213 the owner of the vehicle as shown on the records of the Department of Motor Vehicles or, if the  
214 registered owner has named and provided a valid address for the operator of the vehicle at the  
215 time of the violation in an affidavit executed pursuant to this ~~subsection~~ subdivision, such  
216 named operator of the vehicle. If the summoned person fails to appear on the date of return set  
217 out in the summons mailed pursuant to this section, the summons shall be executed in the  
218 manner set out in § 19.2-76.3.

219 ~~4.~~d. The registered owner of such vehicle shall be given reasonable notice by way of a  
220 summons as provided in this ~~subsection~~ subdivision that his vehicle had been used in violation  
221 of this section, and such owner shall be given notice of the time and place of the hearing and  
222 notice of the civil penalty and costs for such offense.

223 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by  
224 the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of  
225 the violation and providing the legal name and address of the driver of the vehicle at the time of  
226 the violation, a summons will also be issued to the alleged driver of the vehicle at the time of the  
227 offense. The affidavit shall constitute prima facie evidence that the person named in the affidavit  
228 was driving the vehicle at all the relevant times relating to the matter named in the affidavit.

229 If the registered owner of the vehicle produces a certified copy of a police report  
230 showing that the vehicle had been reported to the police as stolen prior to the time of the alleged  
231 offense and remained stolen at the time of the alleged offense, then the court shall dismiss the  
232 summons issued to the registered owner of the vehicle.

233 ~~C. 1. 3.~~ a. The HOT lanes operator may impose and collect an administrative fee in  
234 addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which  
235 administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and  
236 not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid tolls and any  
237 administrative fee detailed in a notice or invoice issued by a HOT lanes operator. If paid within  
238 30 days of notification, the administrative fee shall not exceed \$25.

239           ~~2-b.~~ Upon a finding by a court of competent jurisdiction that the driver of the vehicle  
240 observed by a law-enforcement officer under ~~subsection A, subdivision 1~~ or the vehicle  
241 described in the summons for civil violation issued pursuant to evidence obtained by a photo-  
242 enforcement system under ~~subsection B subdivision 2~~ was in violation of this section, the court  
243 shall impose a civil penalty upon the driver of such vehicle issued a summons under ~~subsection~~  
244 ~~A subdivision 1~~, or upon the driver or registered owner of such vehicle issued a summons under  
245 ~~subsection B subdivision 2~~, payable to the HOT lanes operator as follows: for a first offense,  
246 \$50; for a second offense, \$250; for a third offense within a period of two years of the second  
247 offense, \$500; and for a fourth and subsequent offense within a period of three years of the  
248 second offense, \$1,000, together with, in each case, the unpaid toll, all accrued administrative  
249 fees imposed by the HOT lanes operator as authorized by this section, and applicable court  
250 costs. The court shall remand penalties, the unpaid toll, and administrative fees assessed for  
251 violation of this section to the treasurer or director of finance of the county or city in which the  
252 violation occurred for payment to the HOT lanes operator for expenses associated with  
253 operation of the HOT lanes and payments against any bonds or other liens issued as a result of  
254 the construction of the HOT lanes. No person shall be subject to prosecution under both  
255 ~~subsections A and B subdivisions 1 and 2~~ for actions arising out of the same transaction or  
256 occurrence.

257           ~~3-c.~~ Upon a finding by a court that a person has violated this section, in the event such  
258 person fails to pay the required penalties, fees, and costs, the court shall notify the  
259 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration  
260 certificates and license plates issued for any motor vehicles registered solely in the name of such  
261 person and shall not issue any registration certificate or license plate for any other vehicle that  
262 such person seeks to register solely in his name until the court has notified the Commissioner of  
263 the Department of Motor Vehicles that such penalties, fees, and costs have been paid. The HOT  
264 lanes operator and the Commissioner of the Department of Motor Vehicles may enter into an  
265 agreement whereby the HOT lanes operator may reimburse the Department of Motor Vehicles

266 for ~~their~~ its reasonable costs to develop, implement, and maintain this enforcement mechanism,  
267 and that specifies that the Commissioner of the Department of Motor Vehicles shall have an  
268 obligation to suspend such registration certificates so long as the HOT lanes operator makes the  
269 required reimbursements in a timely manner in accordance with the agreement.

270 ~~4-d.~~ Except as provided in ~~subsections D and E~~ subdivisions 4 and 5, imposition of a  
271 civil penalty pursuant to this section shall not be deemed a conviction as an operator of a motor  
272 vehicle under Title 46.2 and shall not be made part of the driving record of the person upon  
273 whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision  
274 of motor vehicle insurance coverage.

275 ~~D-1.4. a.~~ The HOT lanes operator may restrict the usage of the HOT lanes to designated  
276 vehicle classifications pursuant to an interim or final comprehensive agreement executed  
277 pursuant to § ~~56-566 or 56-566.1~~ 33.2-XXX. Notice of any such vehicle classification  
278 restrictions shall be provided through the placement of signs or other markers prior to and at all  
279 HOT lanes entrances.

280 ~~2-b.~~ Any person driving an unauthorized vehicle on the designated HOT lanes ~~shall be is~~  
281 guilty of a traffic infraction, which shall not be a moving violation, and shall be punishable as  
282 follows: for a first offense, by a fine of \$125; for a second offense within a period of five years  
283 from a first offense, by a fine of \$250; for a third offense within a period of five years from a  
284 first offense, by a fine of \$500; and for a fourth and subsequent offense within a period of five  
285 years from a first offense, by a fine of \$1,000.

286 Upon a conviction under this ~~subsection~~ subdivision, the court shall furnish to the  
287 Commissioner of the Department of Motor Vehicles, in accordance with § 46.2-383, an abstract  
288 of the record of such conviction ~~that, which~~ shall become a part of the person's driving record.  
289 Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any  
290 violation of this ~~subsection~~ subdivision, except that persons convicted of a second, third, fourth,  
291 or subsequent violation within five years of a first offense shall be assessed three demerit points  
292 for each such violation.

293 ~~E-5.~~ The driver of a vehicle who enters the HOT lanes by crossing through any barrier,  
294 buffer, or other area separating the HOT lanes from other lanes of travel ~~shall have committed is~~  
295 guilty of a violation of § 46.2-852, unless the vehicle is a state or local law-enforcement vehicle,  
296 firefighting truck, ambulance, or rescue squad vehicle used in the performance of its official  
297 duties. No person shall be subject to ~~both~~ prosecution both under this ~~subsection subdivision~~  
298 under ~~subsection A, B, or D subdivision 1, 2, or 4~~ for actions arising out of the same transaction  
299 or occurrence.

300 Upon a conviction under this ~~subsection subdivision~~, the court shall furnish to the  
301 Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract  
302 of the record of such conviction, which shall become a part of the convicted person's driving  
303 record.

304 ~~F-6.~~ No person shall be subject to prosecution both under ~~both~~ this section and under §  
305 ~~33.1-46.2 33.2-XXX~~, 46.2-819, or 46.2-819.1 for actions arising out of the same transaction or  
306 occurrence.

307 ~~G-7.~~ Any action under this section shall be brought in the general district court of the  
308 county or city in which the violation occurred.

309 **Drafting note: Existing § 33.1-56.3 was amended by Chapters 85 and 101 of the**  
310 **Acts of Assembly of 2013 and those changes are reflected in the existing language here.**  
311 **Technical changes are made.**

312 § ~~33.1-56.4 33.2-504~~. Release of personal information to or by HOT lanes operators;  
313 penalty.

314 A. The HOT lanes operator may enter into an agreement with the Department of Motor  
315 Vehicles, in accordance with the provisions of subdivision B 21 ~~of subsection B~~ of § 46.2-208,  
316 to obtain vehicle owner information regarding the registered owners of vehicles that use HOT  
317 lanes; and with the Department of Transportation to obtain any information that is necessary to  
318 conduct electronic toll collection and otherwise operate HOT lanes. No HOT lanes operator  
319 shall disclose or release any personal information received from the Department of Motor

320 Vehicles or the Department of Transportation to any third party, except in the issuance of a  
321 summons and institution of court proceedings in accordance with § ~~33.1-56.3~~ 33.2-XXX.  
322 Information in the possession of a HOT lanes operator under this section shall be exempt from  
323 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

324 B. Information collected by a photo-enforcement system shall be limited exclusively to  
325 that information that is necessary for the collection of unpaid tolls. Notwithstanding any other  
326 provision of law, all photographs, microphotographs, electronic images, or other data collected  
327 by a photo-enforcement system shall be used exclusively for the collection of unpaid tolls and  
328 shall not be (i) ~~be~~ open to the public; (ii) ~~be~~ sold ~~and/or~~ or used for sales, solicitation, or  
329 marketing purposes; (iii) ~~be~~ disclosed to any other entity except as may be necessary for the  
330 collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the  
331 imposition of a toll; ~~and or~~ (iv) ~~be~~ used in a court in a pending action or proceeding unless the  
332 action or proceeding relates to a violation of § ~~33.1-56.3~~ 33.2-XXX or upon order from a court  
333 of competent jurisdiction. Information collected under this section shall be purged and not  
334 retained later than 30 days after the collection and reconciliation of any unpaid tolls,  
335 administrative fees, ~~and/or~~ or civil penalties. Any entity operating a photo-enforcement system  
336 shall annually certify compliance with this section and make all records pertaining to such  
337 system available for inspection and audit by the Commissioner of Highways or the  
338 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this  
339 subsection ~~shall constitute~~ constitutes a Class 1 misdemeanor. In addition to any fines or other  
340 penalties provided for by law, any money or other thing of value obtained as a result of a  
341 violation of this section shall be forfeited to the Commonwealth.

342 **Drafting note: Technical changes.**

343 § ~~33.1-56.5~~ 33.2-505. Exclusion of HOT lanes from certain other laws.

344 Notwithstanding any other provision of law, the provisions of §§ 22.1-187, ~~33.1-46.2,~~  
345 ~~33.1-252~~ 33.2-XXX, 33.2-XXX, 46.2-819, and 46.2-819.1 shall not apply to HOT lanes.

346 **Drafting note: Technical changes.**

1 CHAPTER 6.

2 TOLL FACILITIES AND FERRIES.

3 **Drafting note: This proposed chapter is a new chapter combining all sections on**  
4 **ferries, toll bridges, and toll facilities.**

5 § ~~33.1-254~~ 33.2-600. Acquisition or establishment of ferries.

6 The ~~Commonwealth Transportation~~ Board may acquire by purchase, condemnation, or  
7 gift any ferry within the Commonwealth ~~which that~~ forms a connecting link in a state highway  
8 and may purchase all equipment and other things necessary for the establishment of new ferries  
9 to become connecting links in the primary or secondary state highway ~~systems~~ system,  
10 whenever it shall determine such action to be advisable and expedient. The Board may expend  
11 from state highway construction funds of the highway construction district ~~or districts~~ where the  
12 ferries are located and are under ~~its~~ the Board's control at any time such sums as may be  
13 necessary to acquire or establish, maintain, and operate any such ferry.

14 The Board may operate such ferry either as a free or toll ferry and may establish a toll  
15 for the use of such ferry at such rates as are deemed by the Board to be reasonable and proper  
16 without regulation by any other governmental body.

17 **Drafting note: Technical changes.**

18 § ~~33.1-247~~ 33.2-601. Ferry across Corrotoman River.

19 The public free ferry across the Corrotoman River, in the County of Lancaster,  
20 authorized by the act of ~~the twelfth of~~ March 12, 1847, shall be kept according to such act,  
21 except as otherwise provided in this section ~~provided, that is to say:~~. The Circuit Court of  
22 Lancaster may, in its discretion, have the contract for keeping the same let to the lowest bidder  
23 for a period of five years, and the bonds thereby directed shall be to the County of Lancaster  
24 ~~instead of the justices thereof~~. Furthermore, the ferry shall cross from Merry Point to the upper  
25 side of the wharf and canning factory at Ottoman wharf; ~~provided, that.~~ However, the circuit  
26 court of the county shall have the right, upon the application of the board of supervisors, to  
27 discontinue the ferry if it ~~shall be made to appear~~ appears that public necessity therefor no

28 longer exists. No such application shall be made unless and until notice ~~thereof, to whom it may~~  
29 ~~concern, be is~~ given by (i) publication once a week for two successive weeks in ~~some a~~  
30 newspaper published in the county, or having general circulation therein, and ~~by (ii)~~ posting  
31 copies of the notice at the front door of the courthouse of the county and at both landings of the  
32 ferry, ~~such notice to be so posted, and the first publication thereof made,.~~ Such notice shall be  
33 posted and the first newspaper publication made at least ~~thirty~~ 30 days before the day on which  
34 the application will be made to the court.

35 **Drafting note: Technical changes.**

36 § ~~33.1-255~~ 33.2-602. Toll bridges; when privilege ceases.

37 When an act is passed to authorize the erection of a toll bridge, if the work ~~be is~~ not  
38 commenced within one year from the passage of such act or ~~be is~~ not completed within two  
39 years after such commencement or if, after its completion, there ~~be is~~ an abandonment of the toll  
40 bridge or a failure for three successive years to keep it in good order, the privileges granted by  
41 the act shall cease.

42 **Drafting note: Technical changes.**

43 § ~~33.1-256~~ 33.2-603. Bridge Toll bridges not to obstruct navigation or fish.

44 Every such toll bridge shall be ~~so~~ made so as not to obstruct the passage of fish or the  
45 navigation of the watercourse over which it is erected ~~nor the passage of fish.~~

46 **Drafting note: This section was previously located in an article exclusively**  
47 **regarding toll facilities and so it is amended to refer to "toll bridges" rather than**  
48 **"bridges."**

49 § ~~33.1-257~~ 33.2-604. How right to demand tolls ascertained and rates fixed or changed.

50 ~~No tolls shall be received for passing any such bridge until it shall appear to the circuit~~  
51 ~~court of the county wherein the same is that it is completed according to the act authorizing it.~~  
52 Tolls shall be received for passing a bridge only after it appears to the circuit court of the county  
53 where the bridge is located that the bridge is completed according to the act authorizing it. The  
54 court shall ascertain whether it is ~~or is not~~ so completed by appointing three disinterested

55 freeholders to view it. If they report in writing that it is so completed and their report ~~be is~~  
56 confirmed by the court, the person authorized to erect it, ~~or~~ his heirs or assigns, may ~~thenceforth~~  
57 ~~then~~ demand and receive, ~~on persons and things passing the same,~~ tolls at the rates fixed by such  
58 act ~~or, if none be so~~ from persons or things passing over the bridge. If no rates are fixed, then  
59 he, or his heirs or assigns may receive tolls at such rates as may, ~~from time to time,~~ be fixed by  
60 law. ~~Though~~ If the toll rates ~~of toll be are~~ specified in such act, they may, ~~from time to time,~~ be  
61 changed by law, unless ~~in~~ such act otherwise expressly ~~provided~~ provides.

62 **Drafting note: Technical changes.**

63 § ~~33.1-258~~ 33.2-605. Appointment of special police officers in connection with toll  
64 bridges; qualifications, salaries, and fees of such police officers.

65 A. The circuit court of any county, ~~or the judge thereof in vacation,~~ in which there is a  
66 toll bridge or its approaches, or the circuit court of any county, ~~or the judge thereof in vacation,~~  
67 in which lies any part of any toll bridge, or bridges, or their approaches belonging to the same  
68 proprietor, but which toll bridge or bridges ~~and/or or~~ their approaches lie in more than one  
69 county ~~or counties,~~ may, upon the application of ~~such the~~ proprietor, appoint any employee of  
70 such proprietor, employed in ~~and about~~ the control or ~~the~~ operation of such toll bridge or bridges  
71 and approaches, a special police officer, ~~who.~~ Such special police officer may exercise all the  
72 powers and duties imposed and conferred upon sheriffs in ~~this the~~ Commonwealth, in criminal  
73 matters, upon any such toll bridge, or bridges and their approaches. ~~And such~~ Such power shall  
74 extend throughout the Commonwealth when such special police officer is actually in pursuit of  
75 a person accused of crime, ~~or when~~ acting under authority of a warrant duly issued for the arrest  
76 of a person charged with a crime. ~~But~~ However, no special policeman appointed under this  
77 section whose duties as such special policeman are merely incidental to such private  
78 employment shall be deemed to be an employee of the Commonwealth or county or counties  
79 within which such toll bridges and their approaches lie, within the meaning of the Virginia  
80 Workers' Compensation Act (§ 65.2-100 et seq.).

81 § 33.1-259. Qualifications of such police.

82 B. Before any such appointment is made the court, ~~or judge thereof in vacation,~~ shall be  
83 satisfied that such person has been a bona fide resident of ~~this~~ the Commonwealth for more than  
84 one year immediately preceding such appointment and is of good moral character. ~~And before~~  
85 Before any such person shall be permitted to discharge any of the duties of such special  
86 policeman, he shall take the oath required by law and shall give a bond payable to the  
87 Commonwealth ~~of Virginia~~ in the penalty of not less than \$500, conditioned for the faithful  
88 discharge of his official duties.

89 ~~§ 33.1-260. Salary and fees.~~

90 C. No salary shall be paid to any special police officer appointed under § ~~33.1-258~~ 33.2-  
91 XXX by the Commonwealth or county, or counties, in which such properties lie; nor shall he  
92 receive any fees for making any arrest, executing any warrant, summoning a witness, or  
93 carrying a person to or from jail.

94 **Drafting note: Three short sections dealing with a single subject are combined;**  
95 **technical changes are made.**

96 ~~§ 33.1-261~~ 33.2-606. Permission required to erect or maintain toll bridges over navigable  
97 water.

98 No toll bridge erected after March 19, 1928, shall be constructed, maintained, or  
99 operated across, in, or over any navigable waters in or of ~~this~~ the Commonwealth, anything in  
100 the charter of any company to the contrary notwithstanding, unless ~~and until~~ a permit ~~therefor be~~  
101 is first obtained from the ~~Commonwealth Transportation~~ Board. The Board may grant or  
102 withhold such permit or prescribe ~~the its~~ terms and conditions ~~thereof~~, as it may deem for the  
103 best interest of the Commonwealth, except so far as such terms and conditions ~~may be~~ are  
104 provided for ~~herein in this chapter~~.

105 **Drafting note: Technical changes.**

106 ~~§ 33.1-262~~ 33.2-607. Approval of plans by Board; inspection; costs.

107 ~~Before construction is commenced on any such bridge or approaches under any permit~~  
108 ~~granted hereunder, detailed plans, estimates, and specifications must be submitted to the Board~~

109 ~~for approval, and no such bridge shall be constructed unless and until such plans, estimates, and~~  
110 ~~specifications shall have been approved by the Board. Detailed plans, estimates, and~~  
111 ~~specifications shall be submitted to the Board for approval before construction is commenced on~~  
112 ~~a toll bridge or approaches under a permit granted under § 33.2-xxx [33.1-261]. No such toll~~  
113 ~~bridge shall be constructed until such plans, estimates, and specifications are approved by the~~  
114 ~~Board.~~ Access to such work ~~at all times during construction~~ shall be granted to the Board, the  
115 Commissioner of Highways, and authorized representatives of either at all times during  
116 construction. The permittee shall keep accurate records of the cost of such toll bridge and  
117 approaches and real and personal property used in the operation thereof and of all replacements  
118 and repairs and shall submit a copy ~~thereof~~ to the Board.

119 **Drafting note: Technical changes.**

120 ~~§ 33.1-263.~~

121 **Drafting note: Repealed by Acts 1995, c. 647.**

122 ~~§ 33.1-264~~ 33.2-608. Toll bridges may be purchased by Commonwealth.

123 In addition to the power of eminent domain as provided by law for ~~roads~~ highways in the  
124 ~~State Highway System~~ primary state highway system, the Commonwealth, acting through the  
125 Commissioner of Highways, may purchase any such toll bridge and the approaches thereto with  
126 the real estate and tangible personal property necessary for their proper operation, at such time  
127 as may be specified in the permit granted for such toll bridge, or at the expiration of any two-  
128 year period after such time, all at a price equal to the original cost, to be determined as  
129 ~~hereinafter~~ provided in this section, less depreciation.

130 In order to exercise the right of the Commonwealth to purchase and take over any such  
131 toll bridge and approaches and real estate and tangible personal property, the Commonwealth,  
132 through the Commissioner of Highways, shall give to the permittee, or its successor in title of  
133 record to such toll bridge and other property, not less than two months' notice of its intention ~~so~~  
134 to do ~~specifying so and specify~~ the date on which the conveyance will be required. Title to such  
135 toll bridge and approaches and property shall be vested in the Commonwealth free of lien at the

136 time set out in such notice and upon the payment or offer of the purchase price determined in  
137 accordance with ~~this article §§ 33.2-XXX through 33.2-XXX~~, to such permittee or successor in  
138 title of record to such toll bridge and other property, or to the trustee or trustees, or mortgagor or  
139 mortgagees in any deed of trust or mortgage on such property, or to the lien creditor or creditors,  
140 as their interest may appear of record.

141 The original cost of such toll bridge and approaches and real estate and tangible personal  
142 property shall be determined by the Commissioner ~~and of Highways. The original cost~~ shall  
143 include the actual cost ~~thereof~~ and an additional amount equal to interest at the rate of six  
144 percent ~~per annum~~ on the amount actually invested by such permittee, or successor in title of  
145 record, in such property, or in hand for investment therein, during the period of construction.  
146 ~~There shall be included in "actual costs" all costs including "Actual costs" includes~~ the cost of  
147 improvements;<sub>2</sub> financing charges;<sub>2</sub> the cost of traffic estimate and of engineering and legal  
148 expenses, plans, specifications,<sub>2</sub> and surveys;<sub>2</sub> estimates of cost and of revenue;<sub>2</sub> other expenses  
149 necessary or incident to determining the feasibility or practicability of the enterprise;<sub>2</sub>  
150 administrative expenses;<sub>2</sub> and such other expenses as may be necessary or incident to the  
151 financing of the project and the placing of the project in operation. The Commissioner of  
152 Highways shall determine the depreciation and the reasonableness of each item of "actual cost."

153 **Drafting note: Technical changes.**

154 § ~~33.1-265~~ 33.2-609. Conveyance of toll bridge by Commonwealth.

155 In the event ~~any such a toll~~ bridge, at the time it ~~may be~~ is purchased by the  
156 Commonwealth under the provisions of ~~this article §§ 33.2-XXX through 33.2-XXX~~, is not on  
157 the line of a ~~road~~ highway then in one of the systems of state highways, the Commissioner of  
158 Highways may convey such toll bridge and approaches and other property to such county or  
159 counties in which it may be in whole or in part located, upon the payment by such county or  
160 counties of the amount paid by the Commonwealth for such toll bridge and approaches and  
161 other property, with interest on such amount at six ~~per centum per annum~~ percent per year from

162 the time of such payment by the Commonwealth, ~~such.~~ The conveyance ~~to~~ shall be executed in  
163 the name and on behalf of the Commonwealth by the Commissioner of Highways.

164 **Drafting note: Technical changes.**

165 § ~~33.1-266~~ 33.2-610. Sections ~~33.1-264~~ 33.2-XXX through ~~33.1-265~~ 33.2-XXX not  
166 applicable to certain toll bridges.

167 Nothing contained in §§ ~~33.1-264~~ 33.2-XXX through ~~33.1-265~~, ~~however,~~ 33.2-XXX  
168 shall be construed to apply to any bridge existing or under construction on March 20, 1928, or to  
169 bridges constructed within or adjacent to towns or cities having a population of more than 3,500.

170 **Drafting note: The catchline is amended to reflect that this section applies to toll**  
171 **bridges since it is currently placed in Article 4 on Toll Bridges Generally within existing**  
172 **Title 33.1**

173 § ~~33.1-223.2:12~~ 33.2-611. Tolls may vary to encourage travel during off-peak hours.

174 A. In order to provide an incentive for motorists to travel at off-peak hours, and in  
175 accordance with federal requirements, wherever a toll is imposed and collected by the  
176 Department or such other entity as may be responsible for imposing or collecting such toll, the  
177 amount of such toll may vary according to the time of day, day of the week, traffic volume,  
178 vehicle speed, vehicle type, similar variables, or combinations thereof. The amount of such toll  
179 and the time of day when such toll ~~shall change~~ changes shall be as fixed and revised by the  
180 ~~Commonwealth Transportation~~ Board or such other entity as may be responsible for fixing or  
181 revising the amount of such toll; provided, however, that any such variation shall be reasonably  
182 calculated to minimize the reduction in toll revenue generated by such toll.

183 B. 1. Beginning July 1, 2008, every agency of the Commonwealth or any political  
184 subdivision or instrumentality thereof having control of or day-to-day responsibility for the  
185 operation of any toll facility in the Commonwealth shall take all necessary actions to ensure that  
186 every newly constructed toll facility under its control is capable of fully automated electronic  
187 operation, employing technologies and procedures that permit the collection of tolls from users  
188 of the facility, to the extent possible, without impeding the traffic flow of the facility. An entity

189 operating a toll facility that substantially upgrades its equipment or substantially renovates its  
190 facility after July 1, 2008, shall comply with the provisions of this subsection. The provisions of  
191 this section shall also apply to any nongovernmental or quasigovernmental entity operating a  
192 toll facility under a comprehensive agreement entered into, pursuant to the Public-Private  
193 Transportation Act of 1995 (§ ~~56-556-33.2-XXX~~ et seq.), on or after January 1, 2008. Nothing  
194 in this subsection shall be construed to prohibit a toll facility from retaining means of  
195 nonautomated toll collection in some lanes of the facility.

196 2. For toll facilities within the territory embraced by the Northern Virginia  
197 Transportation Authority, the provisions of subdivision 1 apply to all toll facilities, regardless of  
198 whether or not they are newly constructed or substantially upgraded.

199 **Drafting note: Technical changes.**

200 § ~~33.1-251~~ 33.2-612. Unlawful for Department of Transportation to permit free passage  
201 over certain toll bridges and ferries; exceptions.

202 Except for those persons exempted from tolls under § ~~33.1-252~~ 33.2-XXX, it shall be  
203 unlawful for the Department ~~of Transportation~~ or any employee thereof to give or permit free  
204 passage over any toll bridge, tunnel, or ferry ~~which that~~ has been secured through the issuance  
205 of revenue bonds and which bonds are payable from the revenues of such project. Every vehicle  
206 shall pay the same toll as others similarly situated. Except as provided in § ~~33.1-252~~ 33.2-XXX,  
207 the provisions hereof shall apply ~~with full force and effect~~ to vehicles and employees of the state  
208 government, local governments ~~of counties, cities and towns~~, or other political subdivisions; and  
209 to vehicles and persons of all other categories and descriptions, public, private, eleemosynary, or  
210 otherwise.

211 **Drafting note: Technical changes.**

212 § ~~33.1-252~~ 33.2-613. Free use of toll facilities by certain state officers and employees;  
213 penalties.

214 A. Vehicles transporting two or more persons, including the driver, may be permitted  
215 toll-free use of the Dulles Toll Road during rush hours by the ~~Commonwealth Transportation~~

216 Board; however, notwithstanding the provisions of subdivision B 1 of § ~~56-543~~ 33.2-XXX, said  
217 vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia  
218 Highway Corporation Act of 1988 (§ 56-535 et seq.). Upon presentation of a toll pass issued  
219 pursuant to regulations promulgated by the ~~Commonwealth Transportation~~ Board, the following  
220 persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in ~~this~~ the  
221 Commonwealth without the payment of toll while in the performance of their official duties:

- 222 1. The Commissioner of Highways;
- 223 2. Members of the Commonwealth Transportation Board;
- 224 3. Employees of the Virginia Department of Transportation;
- 225 4. The Superintendent of the Department of State Police;
- 226 5. Officers and employees of the Department of State Police;
- 227 6. Members of the Alcoholic Beverage Control Board;
- 228 7. Employees of the regulatory and hearings divisions of the Department of Alcoholic  
229 Beverage Control and special agents of the Department of Alcoholic Beverage Control;
- 230 8. The Commissioner of the Department of Motor Vehicles;
- 231 9. Employees of the Department of Motor Vehicles;
- 232 10. Local police officers;
- 233 11. Sheriffs and their deputies;
- 234 12. Regional jail officials;
- 235 13. Animal wardens;
- 236 14. The Director and officers of the Department of Game and Inland Fisheries;
- 237 15. Persons operating ~~fire fighting~~ firefighting equipment and ambulances owned by a  
238 political subdivision of the Commonwealth or a nonprofit association or corporation;
- 239 16. Operators of school buses being used to transport pupils to or from schools;
- 240 17. Operators of (i) commuter buses having a capacity of 20 or more passengers,  
241 including the driver, and used to regularly transport workers to and from their places of  
242 employment and (ii) public transit buses;

243 18. Employees of the Department of Rail and Public Transportation;

244 19. Employees of any transportation facility created pursuant to the Virginia Highway  
245 Corporation Act of 1988; and

246 20. Law-enforcement officers of the Virginia Marine Resources Commission.

247 ~~B.~~ Notwithstanding the ~~foregoing~~ provision of ~~this~~ subsection A requiring presentation  
248 of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of  
249 concern for public safety on the highways of the Commonwealth, the Department of  
250 Transportation shall, in order to alleviate an actual or potential threat or risk to the public's  
251 safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the  
252 temporary suspension of toll collection operations on its facilities.

253 ~~a.~~1. The assessment of the threat to public safety shall be performed and the decision  
254 temporarily to suspend toll collection operations shall be made by the Commissioner of  
255 Highways or his designee.

256 ~~b.~~2. Major incidents that may require the temporary suspension of toll collection  
257 operations shall include, ~~but not necessarily be limited to~~ (i) natural disasters such as hurricanes,  
258 tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical  
259 spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents  
260 deemed to present a risk to public safety.

261 ~~c.~~3. In any judicial proceeding in which a person is found to be criminally responsible  
262 or civilly liable for any incident resulting in the suspension of toll collections as provided in this  
263 subsection, the court may assess against the person an amount equal to lost toll revenue as a part  
264 of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any  
265 individual incident, be paid to the Department of Transportation for deposit into the toll road  
266 fund.

267 ~~B.~~C. Any tollgate keeper who ~~shall refuse~~ refuses to permit the persons listed in  
268 subsection A ~~of this section~~ to ~~pass through such tollgate or over such~~ use any toll bridge ~~or, toll~~  
269 ferry, ~~or toll road or~~ toll tunnel, or toll road upon presentation of such a toll pass, ~~shall be is~~

270 guilty of a misdemeanor ~~and punished~~ punishable by a fine of not more than \$50, and not less  
271 than \$2.50. Any person other than those listed in subsection A who ~~shall exhibit~~ exhibits any  
272 such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel ~~or ferry shall be, or~~  
273 toll road is guilty of a Class 1 misdemeanor ~~and punished accordingly~~.

274 B1-D. Any vehicle operated by the holder of a valid driver's license issued by ~~Virginia~~  
275 the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and  
276 other toll facilities in ~~Virginia~~ the Commonwealth if:

- 277 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 278 2. The driver of the vehicle has been certified, either by a physician licensed by ~~Virginia~~  
279 the Commonwealth or any other state or by the Adjudication Office of the ~~United States U.S.~~  
280 Department of Veterans Administration Affairs, as being severely physically disabled and  
281 having permanent upper limb mobility or dexterity impairments ~~which that~~ substantially impair  
282 his ability to deposit coins in toll baskets;
- 283 3. The driver has applied for and received from the Department of Transportation a  
284 vehicle window sticker identifying him as eligible for such free passage; and
- 285 4. Such identifying window sticker is properly displayed on the vehicle.

286 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll  
287 facilities in ~~Virginia~~ the Commonwealth. The Department of Transportation shall provide  
288 envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection  
289 and shall accept any payments made by such persons.

290 C-E. Nothing contained in this section or in § ~~33.1-251 or 33.1-285~~ 33.2-XXX shall  
291 operate to affect the provisions of § 22.1-187.

292 D-F. Notwithstanding the provisions of subsections A ~~and~~, B, and C, only the following  
293 persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan  
294 Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-  
295 Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et seq.) without the payment of toll  
296 when necessary and incidental to the conduct of official business:

- 297 1. The Commissioner of Highways;
- 298 2. Members of the Commonwealth Transportation Board;
- 299 3. Employees of the Department of Transportation;
- 300 4. The Superintendent of the Department of State Police;
- 301 5. Officers and employees of the Department of State Police;
- 302 6. The Commissioner of the Department of Motor Vehicles;
- 303 7. Employees of the Department of Motor Vehicles; and
- 304 8. Sheriffs and deputy sheriffs.

305 ~~E.G.~~ Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll  
306 facilities in Virginia controlled by the Richmond Metropolitan Authority, pursuant to the  
307 requirements of subdivisions D 1 through 4 ~~of subsection B1.~~

308 **Drafting note: In subsection B, "but not necessarily be limited to" is removed based**  
309 **on § 1-218, which states: "'Includes' means includes, but not limited to." In subdivision D**  
310 **2, reference to the U.S. Veterans Administration is updated to refer to the U.S.**  
311 **Department of Veterans Affairs, which changed its name in 1989. References to the**  
312 **Department of Transportation retain the full name throughout this section because of**  
313 **references to other Departments. Technical changes are made.**

314 ~~§ 33.1-252.1. Noise abatement measures.~~

315 ~~No local matching funds shall be required in connection with the construction of any~~  
316 ~~noise abatement measures in connection with a facility, connecting two cities with a combined~~  
317 ~~population between 625,000 and 675,000 as determined by the most recent census, whose~~  
318 ~~construction, operation, or maintenance is or is to be funded, in whole or in part, through tolls~~  
319 ~~collected for use of that facility. All costs of construction and maintenance of any and all such~~  
320 ~~noise abatement measures shall be paid from tolls collected for the use of the facility.~~

321 **Drafting note: This section was intended to apply to the Virginia Beach Expressway**  
322 **(linking Norfolk and Virginia Beach). That facility, however, has been toll-free since 1996,**  
323 **making this section obsolete.**

324 § ~~33.1-252.2~~ 33.2-614. Disclosure of certain information relating to use of toll facilities;  
325 injunctive relief; ~~attorneys'~~ attorney fees.

326 A. Neither the Department nor any other operator of any toll bridge, toll road, or other  
327 toll facility; nor any employee or contractor with the Department or other toll facility operator  
328 shall disclose any information derived from an automated electronic toll collection system;  
329 about the time, date, or frequency of use or nonuse of any such facility by any individually  
330 identified motor vehicle except when ordered to do so by a court of competent jurisdiction. The  
331 provisions of this section shall not apply to information supplied (i) to any person who is a  
332 participant in the electronic toll collection system, when such information is limited to vehicles  
333 owned or leased by such person; (ii) to the issuer of any credit card or debit card or other third  
334 party vendor when such information is necessary for collecting the toll and ensuring the  
335 accuracy of such billing by the operator; (iii) for statistical or research purposes, when such  
336 information contains no data attributable to individual vehicles or individual participants; or  
337 (iv) to federal, state, and local ~~law enforcement~~ law enforcement, when such information is  
338 required in the course of an investigation where time is of the essence in preserving and  
339 protecting human life ~~and/or~~ or public safety.

340 B. Any aggrieved person may institute a proceeding for injunction or mandamus against  
341 any person, governmental agency, or other entity that has engaged, is engaged, or is about to  
342 engage in any acts or practices in violation of the provisions of this section. The proceeding  
343 shall be brought in the circuit court of any county or city wherein the person, governmental  
344 agency, or other entity made defendant resides or has a place of business. In the case of any  
345 successful proceeding by an aggrieved party, the person, governmental agency, or other entity  
346 enjoined or made subject to a writ of mandamus by the court shall be liable for the costs of the  
347 action together with reasonable ~~attorneys'~~ attorney fees as determined by the court.

348 **Drafting note: Technical changes.**

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CHAPTER ~~2~~7.

LOCAL AUTHORITY OVER HIGHWAYS.

**Drafting note: Existing Chapter 2 of Title 33.1, Local Authority over Highways, is retained here as proposed Chapter 7 with its two existing articles, and articles relating to assumption of road debt by localities are added to this chapter.**

Article 1.

~~Miscellaneous-General~~ Provisions.

**Drafting note: Existing Article 1 is retained here.**

§ ~~33.1-224~~ 33.2-700. Transfer of ~~streets~~ highways, etc., from secondary state highway system to local authorities.

Whenever any ~~incorporated~~ town has a population of more than 3,500 inhabitants, all the ~~roads,~~ streets, highways, causeways, bridges, landings, and wharves in such town ~~theretofore that were~~ incorporated within the secondary state highway system ~~of state highways~~ shall be eliminated from such system and the control and jurisdiction over them shall be vested in the local authorities. This section shall in no way affect the rights of such towns to receive the benefits provided elsewhere in this title.

**Drafting note: Technical changes.**

§ ~~33.1-225~~ 33.2-701. Levies.

The ~~boards of supervisors or other~~ governing bodies of the several counties shall not make any levy of county or district road taxes or contract any further indebtedness for the construction, maintenance, or improvement of ~~roads~~ highways; ~~provided,~~ however, ~~that~~ the ~~boards of supervisors or other~~ governing bodies of the several counties shall continue to make county or district levies, as the case may be, upon all real and personal property subject to local taxation, in such county or magisterial district, and not embraced within the corporate limits of any ~~incorporated~~ town ~~which that~~ maintains its own streets and is exempt from county and district road taxes unless the citizens of such towns voted on the question of issuing county or district road bonds, sufficient only to provide for the payment of any bonded or other

28 indebtedness and for the interest contracted thereon that may be outstanding as an obligation of  
29 any county or district contracted for road purposes or for the sinking fund for the retirement of  
30 any bonded indebtedness established for county or district road purposes; ~~and provided, further,~~  
31 ~~that the boards of supervisors or other governing bodies of counties adjacent to cities of the first~~  
32 ~~class may, for the purpose of supplementing funds available for expenditure by the~~  
33 ~~Commonwealth for the maintenance and improvement of roads in such counties when such~~  
34 ~~supplementary funds are necessary on account of the existence of suburban conditions adjacent~~  
35 ~~to such cities, levy county or district road taxes, as the case may be, the proceeds thereof to be~~  
36 ~~expended at the option of the board of supervisors or other governing body either by or under~~  
37 ~~the supervision of the Commissioner of Highways in the maintenance and improvement,~~  
38 ~~including construction and reconstruction, of roads in such suburban district; and provided,~~  
39 ~~further, that any expenditure heretofore made by the board of supervisors of Giles County from~~  
40 ~~the general funds of the county for the improvement of roads which are not in the secondary~~  
41 ~~system of state highways and which are open to public use is hereby validated.~~

42 ~~All balances in the hands of the local authorities for county or district road purposes and~~  
43 ~~any taxes levied for years prior to 1932 for county or district road purposes and not collected~~  
44 ~~shall, when collected, and to the extent necessary, be disbursed in payment of obligations~~  
45 ~~heretofore contracted for county or district road purposes and remaining unpaid and the balance,~~  
46 ~~if any, for general county or district purposes.~~

47 For the purpose of this section ~~the term,~~ "district" ~~shall mean~~ means a magisterial,  
48 sanitary, or other special district created by the governing body of a county for the levy of road  
49 taxes.

50 **Drafting note: The penultimate paragraph of this section is stricken in the**  
51 **expectation that any county road taxes collected prior to 1932 have been expended. The**  
52 **term "city of the first class" is used eight times in the Code of Virginia but references are**  
53 **out of date and therefore stricken. The entire section appears obsolete and is a possible**  
54 **candidate for repeal. The reference to expenditures made by Giles County validates all**

55 expenditures made "before now," allowing validation of many expenditures after the  
56 intended date. Technical changes are made.

57 ~~§ 33.1-225.1.~~

58 **Drafting note: Repealed by Acts 2003, c. 303.**

59 ~~§ 33.1-225.2 33.2-702.~~ Gifts received by counties for construction, maintenance, etc., of  
60 secondary ~~roads~~ highways.

61 Notwithstanding the provisions of ~~§ 33.1-225 33.2-XXX~~ or any other provisions of law  
62 to the contrary, the governing body of any county may accept gifts of money, property, or  
63 services to be utilized for the construction, maintenance, and improvement of the secondary  
64 state highway system in such county, in conformity with specifications of and in cooperation  
65 with the Department ~~of Transportation; and~~, provided that such gift resources may be matched  
66 in value by appropriations from the county's general funds. The allocation of such donated and  
67 appropriated resources to the secondary highways shall be made by the governing body of the  
68 county, after consultation with the Department ~~of Transportation~~, to be used by the Department  
69 in accordance with the wishes of the governing body of such county.

70 **Drafting note: Technical changes.**

71 ~~§ 33.1-225.3 33.2-703.~~ Funds for ~~roads~~ highways not in secondary state highway system.

72 Notwithstanding the provisions of ~~§ 33.1-225 33.2-XXX~~ or ~~§ 33.1-230 33.2-XXX~~, the  
73 governing body of any county under the urban county executive form of government may  
74 expend funds on minor improvements and maintenance of ~~roads~~ highways not within the  
75 secondary state highway system, provided such ~~roads~~ highways are open for public use. A ~~road~~  
76 highway shall be determined to be open for public use by applying the same standards set forth  
77 in ~~§ 33.1-184 33.2-XXX~~ or by final order of a court of competent jurisdiction on or before  
78 January 1, 1978, except that in order to be eligible for funds under this section such ~~roads~~  
79 highways need not be ~~thirty 30~~ feet ~~in width~~ wide but shall not be less than ~~fifteen 15~~ feet wide.

80 The maximum amount of mileage to be maintained under this section shall not exceed ~~thirty 30~~  
81 miles.

82 **Drafting note: Technical changes.**

83 ~~§ 33.1 226. Local legislation; compensation of supervisors.~~

84 ~~Chapter 112 of the Acts of 1923, approved March 29, 1923, codified as Michie Code~~  
85 ~~1942, §§ 2014a 2014c, relating to the enactment of county road regulations and the~~  
86 ~~compensation of members of boards of supervisors for work in connection with roads in~~  
87 ~~counties having less than 15,000 population and adjoining one or more cities of the first class, is~~  
88 ~~continued in effect.~~

89 **Drafting note: This section has not been amended since the title was last revised in**  
90 **1970. Its repeal as obsolete is recommended.**

91 ~~§ 33.1 227. Reserved.~~

92 **Drafting note: This section is removed because it is carried as reserved in the**  
93 **existing title.**

94 ~~§ 33.1 228. County road laws continued in effect for certain counties.~~

95 ~~Sections 1970 to 1972, and 2109 to 2122, both inclusive, of the Code of 1919, as~~  
96 ~~amended; § 1 of Chapter 367 of the Acts of 1918, approved March 16, 1918, codified as §~~  
97 ~~2014e of Michie Code 1942; Chapter 370 of the Acts of 1920, approved March 20, 1920,~~  
98 ~~codified as § 2014d of Michie Code 1942; Chapter 28 of the Acts of 1919, approved September~~  
99 ~~5, 1919, codified as §§ 2124a to 2124m of Michie Code 1942, as amended by Chapter 513 of~~  
100 ~~the Acts of 1922, approved March 28, 1922, by Chapter 519 of the Acts of 1922, approved~~  
101 ~~March 29, 1922, and by Chapter 527 of the Acts of 1926, approved March 25, 1926; §§ 1, 11,~~  
102 ~~12, 12 1/2, 13, 14, 17, 19, 29, 30 and 33 to 45 of Chapter 159 of the Acts of 1928, approved~~  
103 ~~March 10, 1928, included in sections codified as §§ 2039(1) to 2039(46) of Michie Code 1942,~~  
104 ~~as amended as to such §§ 12 and 12 1/2 by Chapter 51 of the Acts of 1932, approved February~~  
105 ~~26, 1932, and as amended as to such § 43 by Chapter 368 of the Acts of 1932, approved March~~  
106 ~~26, 1932, codified as § 2773(54) of Michie Code 1942; Chapter 215 of the Acts of 1928,~~  
107 ~~approved March 15, 1928, and Chapter 257 of the Acts of 1946, approved March 25, 1946,~~  
108 ~~codified as § 2039(38a) of Michie Suppl. 1946, relating to roads in counties that have~~

109 ~~withdrawn their roads from the secondary system of state highways and to the issue of bonds to~~  
110 ~~pay for the same, are continued in effect in and for the counties of Arlington and Henrico for so~~  
111 ~~long as such counties continue to maintain such roads without such secondary system of state~~  
112 ~~highways. Should any of such counties bring itself back within such secondary system of state~~  
113 ~~highways under the provisions of § 33.1-85, such section or acts shall thereupon cease to be in~~  
114 ~~effect in and as to such county. And such §§ 2117, 2118 and 2119, of the Code of 1919, as~~  
115 ~~heretofore amended, and §§ 7 and 8 of such Chapter 28 of the Acts of 1919, approved~~  
116 ~~September 5, 1919, as heretofore amended as aforesaid, are continued in effect with respect to~~  
117 ~~any counties that still have outstanding bonds issued under §§ 2110 to 2122, inclusive, of the~~  
118 ~~Code of 1919, as heretofore amended or under such Chapter 28 of the Acts of 1919, as amended~~  
119 ~~as aforesaid, and are continued in effect also with respect to all such bonds so issued and still~~  
120 ~~outstanding.~~

121 **Drafting note: This section has not been amended since the title was last revised in**  
122 **1970. Its repeal as obsolete is recommended.**

123 ~~§ 33.1-228.1~~ § 33.2-704. Agreements between localities for construction and operation of  
124 toll facilities.

125 The governing bodies of adjacent ~~counties, cities, and towns~~ localities may enter into  
126 agreements providing for the construction and operation of highways, bridges, and ferries within  
127 their boundaries and for the imposition and collection of tolls for the use of such facilities. Such  
128 tolls may be in whatever amount, subject to whatever conditions, and expended for whatever  
129 purposes provided for in such agreements. Such agreements shall provide for the design, land  
130 acquisition, or construction of primary or secondary highway projects that have been included in  
131 the six-year plan pursuant to § ~~33.1-70.01~~ 33.2-XXX, or in the case of a primary highway, an  
132 approved project included in the six-year improvement program of the ~~Commonwealth~~  
133 ~~Transportation~~ Board. Such agreements shall specify relevant procedures and responsibilities  
134 concerning the design, right-of-way acquisition, construction, and contract administration of  
135 such projects. Any facility constructed pursuant to the authority granted in ~~the~~ this section shall

136 be constructed in accordance with the applicable standards of the ~~Virginia~~ Department ~~of~~  
137 ~~Transportation~~ for such facility. Prior to executing any agreement pursuant to this section, a  
138 joint public hearing shall be held concerning the benefits of and need for as well as the location  
139 and design of the facility.

140 **Drafting note: Technical changes are made.**

141 Article 2.

142 Establishment, Alteration, and Discontinuance of Highways.

143 **Drafting note: Existing Article 2 of this chapter is also retained.**

144 § ~~33.1-229~~ 33.2-705. Continuance of powers of county authorities; alternative  
145 procedure.

146 The local ~~road~~ authorities shall continue to have the powers vested in them on June 20,  
147 1932, for the establishment of new ~~roads~~ highways in their respective counties, which shall,  
148 upon such establishment, become parts of the secondary state highway system ~~of state highways~~  
149 within such counties. They shall likewise have the power to alter or change the location of any  
150 ~~road~~ highway now in the secondary state highway system ~~of state highways~~ within such  
151 counties or ~~which that~~ may hereafter become a part of the secondary state highway system ~~of~~  
152 ~~state highways~~ within such counties. The Commissioner of Highways shall be made a party to  
153 any proceeding before the local ~~road~~ authorities for the establishment of any such ~~road~~ highway  
154 or for the alteration or change of the location of any such ~~road~~ highway. When any such board  
155 or commission appointed by the ~~board of supervisors or other~~ governing body of a county to  
156 view a proposed ~~road~~ highway or to alter or change the location of an existing ~~road~~ highway  
157 shall award damages for the right-of-way for the same, in either case to be paid in money, it  
158 may be paid by the ~~board of supervisors or other~~ governing body of the county out of the  
159 general county levy funds. No expenditure by the Commonwealth shall be required upon any  
160 new ~~road~~ highway so established or any old road<sup>[VW1]</sup> the location of which is altered or  
161 changed by the local ~~road~~ authorities, except as may be approved by the Commissioner of  
162 Highways. If the property sought to be taken is for the easement or right-of-way, the plat shall

163 reasonably indicate thereon any appurtenant right-of-way or easement for ingress and egress to  
164 and from the principal easement or right-of-way being taken.

165 As an alternative to the method of establishing or relocating a ~~road~~ highway provided in  
166 the preceding paragraph, the Commissioner of Highways, by and with the approval of the  
167 ~~Commonwealth Transportation~~ Board and the ~~board of supervisors or other~~ governing body of a  
168 county, shall have power and authority to make such changes in routes in, and additions to, the  
169 secondary state highway system ~~of state highways~~ from time to time as the public safety or  
170 convenience may require.

171 The service of any process or notice in any such proceedings upon the district  
172 administrator of the Department ~~of Transportation~~ having the supervision of maintenance and  
173 construction of highways in any such county shall be termed sufficient service on the  
174 Commissioner of Highways.

175 **Drafting note: Existing § 33.1-229 was amended by Chapters 585 and 646 of the**  
176 **2013 Acts of Assembly and those changes are reflected in the existing language here.**  
177 **Technical changes are made.**

178 § ~~33.1-230~~ 33.2-706. How ~~roads~~ highways and bridges in counties established or altered;  
179 examination and report; width and grade of ~~roads~~ highways; employing engineer.

180 Whenever the ~~board of supervisors or other~~ governing body of any county ~~shall be~~ is of  
181 the opinion that it is necessary to establish or alter the location of a public ~~road~~ highway or  
182 bridge, or any other person applies to the ~~board or other~~ local governing body therefor, it may  
183 appoint five viewers, who shall be resident freeholders of the county, any three of whom may  
184 act, to examine such ~~roads~~ highways or routes and report upon the expediency of establishing or  
185 altering the location of such public ~~road~~ highway or bridge ~~or, in~~ In lieu of such viewers, ~~it the~~  
186 local governing body may direct the county road engineer or county road manager, ~~if any,~~ to  
187 examine such ~~road~~ highway or route and make such report, and such board may establish or  
188 alter such ~~road~~ highway or bridge upon such location and of such width and grade as it may  
189 prescribe; ~~provided, that the~~ The right-of-way for any public ~~road~~ highway shall not be less

190 than ~~thirty~~ 30 feet wide, except that in any case in which the cost of constructing and  
191 maintaining any such ~~road~~ highway is to be borne by any individual ~~or individuals~~ the right-of-  
192 way for such ~~road~~ highway may be less than ~~thirty, 30 but~~ not less than ~~fifteen, 15~~ feet in width.  
193 If ~~no one~~ none of the viewers ~~be is~~ an engineer, appointed for the purpose of making survey and  
194 map, the ~~board of supervisors or other~~ local governing body may employ ~~one~~ an engineer, if  
195 necessary, to assist the viewers.

196 **Drafting note: Technical changes. Plural references are removed pursuant to § 1-**  
197 **227.**

198 § ~~33.1-231~~ 33.2-707. Duty of viewers, etc.; report.

199 The viewers, or the county road engineer or county road manager, ~~as the case may be,~~  
200 shall, as early as practicable after receiving the order of the ~~board or other~~ local governing body  
201 ~~to that effect~~, proceed to make the view, and may examine ~~other~~ routes and locations other than  
202 that proposed and if of the opinion that there is a necessity to establish or alter the location of  
203 the public ~~road~~ highway or bridge shall locate the same, ~~return a map or diagram thereof with~~  
204 ~~their report~~, and make a report to the ~~board or other~~ local governing body, ~~stating that includes a~~  
205 map or diagram of the location made and that states:

206 (1) 1. Their reasons for preferring the location made;<sub>;</sub>

207 (2) 2. The probable cost of establishing or altering the location of such ~~road~~ highway or  
208 bridge;<sub>;</sub>

209 (3) 3. The convenience and inconvenience that will result ~~as well~~ to individuals as well  
210 as to the public;<sub>;</sub>

211 (4) 4. Whether the ~~road~~ highway or bridge will be one of such mere private convenience  
212 as to make it proper that it should be opened, established, or altered and kept in order by the  
213 person ~~or persons~~ for whose convenience it is desired;<sub>;</sub>

214 (5) 5. Whether any yard, garden, or orchard will have to be taken;<sub>;</sub>

215 (6) 6. The names of the landowners on such route;<sub>;</sub>

216 (7) 7. Which of such landowners require compensation;<sub>;</sub>

217 ~~(8)~~ 8. What will be a just compensation to the landowners requiring compensation for  
218 the land so taken and for the damages to the residue of the tract, if any, beyond the peculiar  
219 benefits to be derived in respect to such residue, from the ~~road~~ highway or bridge to be  
220 established; and

221 ~~(9)~~ 9. All other facts and circumstances in their opinion useful in enabling the ~~board of~~  
222 ~~supervisors or other~~ local governing body to determine the expediency of establishing or  
223 altering the ~~road~~ highway or bridge.

224 They shall file such report with the clerk of the ~~board or other~~ local governing body.

225 **Drafting note: Technical changes.**

226 § ~~33.1-242~~ 33.2-708. Pay to viewers, commissioners, and engineers.

227 A statement in writing showing the number of days each viewer or commissioner and  
228 engineer, appointed or employed under the provisions of ~~this article §§ 33.2-XXX through 33.2-~~  
229 ~~XXX~~, was employed shall be sworn to and presented to the governing body, and the governing  
230 body may allow a reasonable compensation not exceeding \$50 per day to each viewer or  
231 commissioner and not exceeding \$7.50 per day and necessary traveling expenses for the  
232 engineer; provided that in any county adjoining a county having a population in excess of 1,000  
233 per square mile and in the County of Henrico, the governing body may pay the viewers,  
234 commissioners, and engineers in addition to expenses not exceeding \$25 a day for each day they  
235 were respectively employed hereunder.

236 **Drafting note: The rates of compensation provided for in this section have not been**  
237 **changed since 1978 (Chapter 305, Acts of Assembly of 1978) when the per day pay to**  
238 **viewers and commissioners was raised to the present \$50 from \$10. Reference to "this**  
239 **article" is replaced with specific section numbers, since what had been a single article is**  
240 **now part of a larger article. Technical changes are made.**

241 § ~~33.1-232~~ 33.2-709. Consent of landowners.

242 In the event that some of the landowners do not require compensation and will execute  
243 their written consent giving the right-of-way in question, the viewers, or the county road

244 engineer or county road manager, ~~as the case may be~~, shall obtain such consent and return it  
245 with ~~their~~ the report to the local governing body, and such written consent shall operate and  
246 have the force and effect of a deed from the landowners of the county for the right-of-way so  
247 long as it is used by the public, in case the ~~road~~ highway is established, and it shall be recorded  
248 in the deed books of the county.

249 Should any of the landowners require compensation and not unite in such deed, the  
250 subsequent proceedings ~~as to them~~ shall be as ~~herein~~ prescribed in this article.

251 **Drafting note: Technical changes.**

252 § ~~33.1-233~~ 33.2-710. Proceedings on report; notice to owners.

253 At the next meeting of the ~~board of supervisors or other local~~ governing body after  
254 receipt of such report, as provided in § 33.2-XXX, unless the opinion of the ~~board or other local~~  
255 governing body ~~be is~~ against establishing or altering the ~~road~~ highway or bridge, ~~they the local~~  
256 governing body shall require ~~their~~ its clerk to give written notice to the owner of the land on  
257 which it is proposed to establish or alter such ~~road~~ highway or bridge at least five days before  
258 the hearing to be held under § ~~33.1-235 of this Code~~ 33.2-XXX informing the owner of the time  
259 and place of the hearing at which he may appear and present his views. Notice sent by registered  
260 or certified mail to the last known address of such owner as shown on the current real estate tax  
261 assessment books shall be deemed adequate compliance with this requirement. If the hearing is  
262 continued, notice shall be ~~remailed~~ mailed again. If the current real estate tax assessment books  
263 do not contain the name of the owner of the affected land, notice of the hearing shall be  
264 published once each week for four successive weeks in a newspaper having general circulation  
265 in the county.

266 **Drafting note: Technical changes.**

267 § ~~33.1-234~~ 33.2-711. Guardian ad litem for persons under disability.

268 If any such owner or proprietor ~~be is~~ a person under a disability as defined in § 8.01-2,  
269 the circuit court of the county, ~~or the judge thereof in vacation~~, shall, at the time the clerk shall  
270 issue such process, or as soon thereafter as practicable, upon the court's or judge's own motion,

271 or upon the suggestion of any party in interest, appoint for such person a guardian ad litem, who  
272 shall faithfully represent the interest of the person under a disability and whose fees shall be  
273 fixed by the court or judge making the appointment.

274 **Drafting note: Technical change.**

275 § ~~33.1-235~~ 33.2-712. Defense allowed; what board may do.

276 Upon the return of the process duly executed, defense may be made to the proceedings  
277 by any party and the ~~board of supervisors or other~~ local governing body may hear testimony  
278 touching the expediency or propriety of establishing or altering the ~~road~~ highway or bridge.  
279 Upon such hearing, ~~unless the board of supervisors or other local governing body be of opinion~~  
280 ~~that the road or bridge ought not to be established or altered, in which case it shall so order, it~~  
281 shall ~~proceed to~~ fix ~~upon a~~ just compensation to the proprietors and tenants for the land  
282 proposed to be taken and the damage accruing therefrom, unless the local governing body is of  
283 the opinion that the highway or bridge should not be established or altered in which case it shall  
284 so order.

285 **Drafting note: Technical change.**

286 § ~~33.1-236~~ 33.2-713. Appointment of commissioners to assess damages.

287 If ~~any a~~ tenant or proprietor ~~desire, desires~~ or if the ~~board of supervisors or other local~~  
288 governing body ~~see sees~~ cause ~~for doing it, it~~ the local governing body shall appoint five  
289 disinterested resident freeholders of the county as commissioners, any three of whom may act,  
290 ~~for the purpose of ascertaining a to ascertain~~ just compensation for the land to be taken for such  
291 ~~road~~ highway or bridge and damages, if any, to the residue, beyond the benefits to be derived by  
292 such residue, from such ~~road~~ highway or bridge.

293 **Drafting note: Technical changes.**

294 § ~~33.1-237~~ 33.2-714. Enhancement in value of residue.

295 The enhancement, if any, in value of the residue by reason of the establishment or  
296 alteration of such ~~road~~ highway or bridge shall be offset against the damage to the residue, but

297 there shall be no recovery over against such landowner for any excess nor shall enhancement be  
298 offset against the value of land taken.

299 **Drafting note: Technical changes.**

300 § ~~33.1-238~~ 33.2-715. Action of commissioners; report.

301 The commissioners shall meet on the lands of ~~such the~~ proprietors and tenants ~~as may be~~  
302 that are named in the order of the ~~board of supervisors or other local~~ governing body at a ~~certain~~  
303 specified place and day ~~therein also specified~~, of which notice shall be given by the sheriff to  
304 such proprietors and tenants or their agents, ~~except only that it.~~ Notice need not be given to ~~one~~  
305 any person present at the time ~~of making~~ the order is made. Any one or more of the  
306 commissioners attending on the land ~~as aforesaid~~ may adjourn, from time to time, ~~till the~~ until  
307 their business ~~shall be is~~ finished. The commissioners, in the discharge of their duties, shall  
308 comply in all respects with the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 so far  
309 as applicable. They shall ~~forthwith~~ promptly make ~~return of~~ their report as required by § 25.1-  
310 232 to the ~~board of supervisors or other local~~ governing body and, unless good cause ~~be is~~  
311 shown against the report, it shall be confirmed. If, however, good cause ~~be is~~ shown against the  
312 report or the commissioners report their disagreement, or fail to report within a reasonable time,  
313 the ~~board of supervisors or other local~~ governing body, ~~as often as it seems proper,~~ may appoint  
314 other commissioners for the purpose of ascertaining to ascertain the compensation and damages  
315 ~~as aforesaid~~. When any report is confirmed, the ~~board of supervisors or other local~~ governing  
316 body shall establish or alter the ~~road~~ highway or bridge with or without gates, as ~~to~~ it may seem  
317 proper, and provide for the payment of the compensation and damages allowed.

318 **Drafting note: Technical changes and modernization of language.**

319 § ~~33.1-239~~ 33.2-716. Appeal to circuit court.

320 If ~~such an~~ applicant, proprietor, or tenant is ~~dissatisfied not satisfied~~ with the decision of  
321 the ~~board of supervisors or other local~~ governing body ~~in with~~ respect to the amount of  
322 compensation or damages allowed, he may ~~of right~~ appeal, but only on the question of  
323 compensation and damages, to the circuit court of the county, provided such appeal is filed

324 within ~~sixty~~ 60 days. The court shall hear the matter de novo as to the amount of compensation  
325 and damages with the further right of appeal as provided by general law. Upon the hearing of  
326 the appeal, the court shall ascertain the amount of compensation and damages, if any, to which  
327 such proprietor is entitled, and shall certify the same to the ~~board of supervisors or other~~ local  
328 governing body, ~~who~~ which shall proceed to carry out the judgment of the court; ~~provided,~~  
329 ~~however~~ that the ~~board of supervisors or other~~ local governing body shall be summoned to  
330 appear at the hearing of the appeal.

331 **Drafting note: Technical changes.**

332 § ~~33.1-240~~ 33.2-717. Who shall pay costs, compensation, and damages.

333 When the ~~road~~ highway or bridge is established or altered, the county shall be  
334 chargeable with the compensation and damages to the proprietor or tenant and all costs incurred  
335 in the proceedings; ~~provided,~~ ~~however,~~ that when the record shows that the sum allowed by the  
336 circuit court on appeal, as compensation and damages to any proprietor or tenant, is not more  
337 than the amount allowed ~~him~~ by the ~~board of supervisors or other~~ local governing body from  
338 whose decision the appeal was taken, such proprietor or tenant shall be adjudged to pay the  
339 costs occasioned by such appeal. When the ~~board of supervisors or other~~ local governing body  
340 decides against the application to establish or alter a ~~road~~ highway or bridge, the applicant shall  
341 pay the costs incurred in the case, except the compensation of the viewers.

342 But when it shall appear to the ~~board of supervisors or other~~ local governing body that  
343 the opening and establishing or altering of such ~~road~~ highway will be for mere private  
344 convenience, then the ~~board of supervisors or other~~ local governing body may order the same  
345 upon condition that such applicant pay, in whole or in part, the compensation and damages to  
346 the proprietor or tenant and the costs of the proceedings and keep the ~~road~~ highway in order. In  
347 any such case the ~~road~~ highway shall not be opened and established or altered until such  
348 compensation and damages and costs ~~shall have~~ has been first paid or the written consent of the  
349 proprietor or tenant has been given.

350 **Drafting note: Technical changes.**

351 § ~~33.1-241~~ 33.2-718. ~~Roads~~ Highways not to be established through cemetery or  
352 seminary of learning without owners' consent.

353 No ~~road~~ highway shall be established upon or through the lands of any cemetery or  
354 through the lands of any seminary of learning without the consent of the owners thereof.

355 **Drafting note: Technical change.**

356 § ~~33.1-243~~ 33.2-719. Abandonment of certain ~~roads~~ highways and railway crossings.

357 The governing body of any county ~~which~~ that has chosen or hereafter chooses not to be  
358 included in the provisions of ~~Article 6 (§ 33.1-67 et seq.) of Chapter 1 of this title XXX,~~  
359 whenever it deems that any part of a ~~road~~ highway subject to its jurisdiction is no longer  
360 required or an existing crossing by any such ~~road~~ highway of the lines of a railway company, or  
361 any existing crossing by the lines of a railway company of such ~~road~~ highway, is no longer  
362 necessary as a part of such ~~road~~ highway system, may abandon the section of ~~road,~~ highway or  
363 the crossing.

364 The procedure for any such abandonment shall be governed by the provisions applicable  
365 to the ~~Commonwealth Transportation~~ Board as provided in §§ ~~33.1-144 to 33.1-167~~ 33.2-XXX  
366 through 33.2-XXX, and all provisions applicable to the Board shall apply, mutatis mutandis, to  
367 the governing body of the county.

368 **Drafting note: Technical changes.**

369 § ~~33.1-244~~ 33.2-720. Supervisors may issue process.

370 The ~~board of supervisors or other~~ governing body of a county shall have power to cause  
371 process to issue and compel the attendance of witnesses and other parties.

372 **Drafting note: Technical change.**

373 § ~~33.1-245~~ 33.2-721. Compensation of clerk of board.

374 ~~Except in the County of Henrico the~~ The clerk of the ~~board of supervisors or other~~ local  
375 governing body of a county shall receive for the duties to be performed by him under the  
376 provisions of this ~~chapter, article~~ compensation to be fixed and allowed to him by the ~~board or~~  
377 ~~other local~~ governing body, ~~not less, however, than \$100 and not to exceed \$300 per annum.~~



404 **Drafting note: Existing Article 1 of Chapter 4 of Title 33.1 is retained and relocated**  
405 **here.**

406 ~~§ 33.1-321, 33.2-723. County authorized to assume Assumption of district highway~~  
407 indebtedness by counties, generally.

408 A. Any county may assume the payment of and pay any outstanding indebtedness of any  
409 magisterial district or districts thereof, incurred for the purpose of constructing public ~~roads~~  
410 ~~which highways that~~ were subsequently taken over by the Commonwealth, provided the  
411 assumption thereof ~~be is~~ approved by a majority of the qualified voters of the county voting on  
412 the question at an election to be held as ~~hereinafter~~ provided in this section.

413 ~~§ 33.1-322. Resolution for election; notice thereof.~~

414 B. The governing body of the county may, by a resolution entered of record in its minute  
415 book, require the judges of election to open a poll at the next regular election and take the sense  
416 of the qualified voters of the county upon the question whether or not the county shall assume  
417 the ~~road highway~~ indebtedness of . . . . . district, or . . . . . districts. The  
418 local governing body shall cause notice of such election to be given by the posting of written  
419 notice thereof at the front door of the county courthouse at least ~~thirty~~ 30 days prior to the date  
420 the same is to be held and by publication thereof once a week for two successive weeks in ~~some~~  
421 a newspaper published ~~in the county, and if none such, then in some newspaper or~~ having  
422 general circulation ~~therein in the county~~, which notice shall set forth the date of such election  
423 and the question to be voted on.

424 ~~§ 33.1-323. Conduct of election; certification and recording of returns.~~

425 C. The ballots for use in voting upon the question so submitted shall be prepared,  
426 printed, distributed, voted, and counted and the returns made and canvassed in accordance with  
427 the provisions of § 24.2-684. The results shall be certified by the commissioners of election to  
428 the county clerk, who shall certify the same to the governing body of the county, and such  
429 returns shall be entered of record in the minute book of the local governing body.

430 ~~§ 33.1-324. Favorable vote renders indebtedness county obligation.~~

431 D. If a majority of the voters voting on the question vote in favor of the assumption by  
432 the county of the ~~road-highway~~ indebtedness of any district ~~or districts~~ of the county, such  
433 indebtedness shall become and be an obligation ~~or obligations~~ of the county and as binding  
434 thereon as if the same had been originally contracted by the county. In such event the governing  
435 body of the county is authorized to levy and collect taxes throughout the county for the payment  
436 of the district indebtedness so assumed, both as to principal and interest.

437 ~~§ 33.1-325. District road obligations not affected by adverse vote.~~

438 E. Nothing ~~herein~~ contained in this section shall ~~in any way~~ affect the validity of such  
439 district ~~road highway~~ obligations in the event ~~of that~~ the result of such election ~~being is~~ against  
440 the assumption thereof by the county, but they shall continue to be as valid and binding in all  
441 respects, as they were in their inception.

442 **Drafting note: Five short sections dealing with the same subject are merged. The**  
443 **five existing sections appear obsolete and are a candidate for repeal. Plural references are**  
444 **deleted pursuant to § 1-227.**

445 ~~Article 2.~~

446 ~~Assumption by County With Executive Form of Government.~~

447 **Drafting note: Repeal of this article is recommended because it only applies to**  
448 **taking over of debts incurred prior to June 14, 1945.**

449 ~~§ 33.1-326. Authorization of assumption.~~

450 ~~Any county operating under the executive form of government may assume indebtedness~~  
451 ~~of one or more of its magisterial districts incurred prior to June 14, 1945, for the construction of~~  
452 ~~roads, provided the voters in the county vote in favor of the assumption of such indebtedness.~~

453 ~~§ 33.1-327. Election to determine assumption.~~

454 ~~The circuit court of the county, or the judge thereof in vacation, upon the petition of a~~  
455 ~~majority of the board of county supervisors of such county, shall make an order requiring the~~  
456 ~~judges of election at the next regular election, or at any other time not less than thirty days from~~  
457 ~~the date of such order, which shall be designated therein, to open a poll and take the sense of the~~

458 ~~qualified voters of the county upon the question of whether the county shall assume the~~  
459 ~~road indebtedness of ..... district, or ..... districts.~~

460 ~~§ 33.1-328. Conduct of election.~~

461 ~~The regular election officers of the county at the time designated in the order authorizing~~  
462 ~~the vote shall open the polls at the various voting places in the county and the ballots for such~~  
463 ~~election shall be prepared, distributed and voted, the election conducted and the result thereof~~  
464 ~~ascertained and certified in the manner provided by law in other elections, except that there shall~~  
465 ~~be printed upon the ballots the question, "Shall the county assume the road indebtedness of ....~~  
466 ~~..... district or districts?" (as the case may be), and the following:~~

467  
468  
469  ~~For~~

470  
471  ~~Against~~

472  
473 ~~§ 33.1-329. Effect of favorable vote.~~

474 ~~If a majority of the voters at the election vote in favor of the assumption of indebtedness~~  
475 ~~of districts, or a district, of the county, such indebtedness shall become an obligation of the~~  
476 ~~county as binding thereon as if contracted by the county in its inception and may be enforced~~  
477 ~~against it like any debt of the county as provided by law and the obligation shall be validated~~  
478 ~~and shall not be questioned thereafter by the county.~~

479 ~~§ 33.1-330. Payment; refunding issue.~~

480 ~~If a majority of the voters at the election vote in favor of the assumption of such~~  
481 ~~indebtedness, the board of county supervisors may appropriate any part or all of the surplus in~~  
482 ~~the general funds of the county, not otherwise appropriated, toward payment of the indebtedness~~  
483 ~~assumed; and the board may likewise issue new bonds of the county at the same or a lower rate~~  
484 ~~of interest for such amount as may then be necessary to retire outstanding bonds of the districts,~~  
485 ~~and thereafter the board of county supervisors shall provide for the imposition and collection~~  
486 ~~annually of a tax in addition to all other taxes on property subject to local taxation and not~~  
487 ~~exempt from the levy of taxes formerly levied for the payment of bonds refunded, sufficient in~~

488 ~~amount to pay the interest on such bonds and the principal thereof, as the same respectively~~  
489 ~~become due, notwithstanding any tax rate limitations which would otherwise be applicable to~~  
490 ~~the levy of such taxes. Such tax shall be levied and collected by the same officers, at the same~~  
491 ~~time and in the same manner as general taxes of the county.~~

492 ~~The sale of such bonds, deposit of proceeds, security for deposits, provisions for sinking~~  
493 ~~funds and expenses of authorization and issuance shall be in accordance with the provisions of~~  
494 ~~general law except that the taxes for the payment of such bonds, principal and interest, shall be~~  
495 ~~uniformly levied throughout the county. The proceeds of the sale of such refunding bonds shall~~  
496 ~~be invested in obligations of the United States of America maturing or redeemable at the option~~  
497 ~~of the holder, not later than the date of maturity or the optional redemption date of the bonds to~~  
498 ~~be refunded.~~

499 ~~§ 33.1-331. Validity of existing bonds not affected.~~

500 ~~Nothing contained in this article shall affect the validity of existing bonds of any district~~  
501 ~~in a county now operating under the executive form of government.~~

502 ~~Article 3.~~

503 ~~Redemption of District Road Bonds.~~

504 **Drafting note: Repeal of this obsolete article is recommended.**

505 ~~§ 33.1-332. Election to determine redemption.~~

506 ~~Whenever the holders of the majority amount of any issue of bonds made by any road~~  
507 ~~district in the Commonwealth, together with twenty-five freeholders of the district, shall petition~~  
508 ~~the circuit court of the county in which such district is located for an election to ascertain~~  
509 ~~whether the people of such district desire that such bonds shall be redeemed before maturity at~~  
510 ~~their face value with accrued interest, if any, and whether they will authorize the board of~~  
511 ~~supervisors or other governing body of such county to provide a special levy to provide a fund~~  
512 ~~to be used for that purpose along with other funds accumulated to the credit of such district for~~  
513 ~~road purposes, the court shall order an election to be held in the same manner as elections are~~  
514 ~~held when ordered upon the question of the issuance of county or district bonds and there shall~~

515 ~~be printed on the ballot used at such election the words "for redemption of bonds" and "against~~  
516 ~~redemption of bonds" and voters at such election shall express their preference by erasing the~~  
517 ~~words which do not express such preference.~~

518 ~~§ 33.1-333. Redemption of such bonds.~~

519 ~~If the majority of the voters of the district, voting at such election, shall vote in favor of~~  
520 ~~the redemption of the bonds prior to their maturity, the court shall direct its clerk to notify all the~~  
521 ~~holders of the bonds, as far as they may be ascertained, whose names are not already among~~  
522 ~~those who petition for the election, to communicate in writing to the clerk, within thirty days,~~  
523 ~~whether or not they wish the bonds which they hold to be redeemed prior to their maturity. The~~  
524 ~~clerk shall communicate to the chairman of the board of supervisors or other governing body of~~  
525 ~~the county the names, number and amount of bonds, the holders of which have consented to~~  
526 ~~have them redeemed prior to their maturity; and the board of supervisors or other governing~~  
527 ~~body in making up its next levy shall provide for sufficient taxes upon the property of the~~  
528 ~~residents of the district to redeem the bonds within three years. As the accumulations from the~~  
529 ~~several levies shall accrue the treasurer of the county shall redeem the bonds, in the order of~~  
530 ~~their presentation, and cancel and retire the same.~~

531 ~~§ 33.1-334. Subsequent election.~~

532 ~~No second or subsequent election shall be held upon the question of redeeming any one~~  
533 ~~issue of bonds at intervals shorter than five years.~~

534 ~~§ 33.1-335. Application of balance to payment of bonds.~~

535 ~~Should there be a balance in the hands of any board of supervisors or other governing~~  
536 ~~body of any county a district of which has issued such bonds, which has not been used for the~~  
537 ~~building of roads in the district, the board of supervisors or other governing body may, should~~  
538 ~~they deem it advisable, apply such balance to the payment of such bonds as hereinbefore~~  
539 ~~provided for, with the consent of the holders of such bonds.~~

CHAPTER ~~6~~ 8.OFFENSES CONCERNING HIGHWAYS ~~AND TRAVELERS THEREON.~~

**Drafting note: Existing Chapter 6 of Title 33.1 is retained as proposed Chapter 8 and placed in Subtitle II, Modes of Transportation.**

§ ~~33.1-344~~ 33.2-800. "~~Road~~" ~~construed~~ Definition.

~~In this chapter, the word "road" shall be construed to mean any~~ As used in this article, "highway" means a state or county ~~road~~ highway.

**Drafting note: "Road" was used interchangeably with "highway" in the sections in existing Chapter 6, so references to "road" are changed to "highway" in keeping with changes made throughout the proposed title.**

§ ~~33.1-345~~ 33.2-801. Cutting or ~~injuring~~ damaging trees ~~near highways, injuring;~~ damaging bridges; damaging markers, ~~etc.~~; obstructing ~~roads, etc~~ highways; penalty.

Any person ~~shall be~~ is guilty of a Class 1 misdemeanor who ~~shall~~:

(1) ~~Cut~~ 1. Cuts or ~~injures~~ damages a tree within ~~fifty~~ 50 feet of a ~~road~~ highway so as to render it liable to fall and ~~leave~~ leaves it standing;

(2) ~~2.~~ Knowingly and willfully, without lawful authority, ~~break~~ breaks down, ~~destroy~~ destroys, or ~~injures~~ damages any bridge or log placed across a stream for the accommodation of pedestrians;

(3) ~~Obstruct~~ 3. Obstructs any ~~road~~ highway or any ditch made for the purpose of draining ~~any such road~~ the highway;

(4), (5) ~~[Repealed.]~~

(6) ~~4.~~ Willfully or maliciously ~~displace~~ displaces, ~~remove~~ removes, ~~destroy~~ destroys, or ~~injures~~ damages any highway sign or historical marker or any inscription thereon that is lawfully within a highway; or

(7) ~~Put~~ 5. Puts or ~~cast~~ casts into any public ~~road~~ highway any glass, bottles, glassware, crockery, porcelain or pieces thereof, caltrops or any pieces of iron or hard or sharp metal, or any nails, tacks, or sharp-pointed instruments of any kind, likely in their nature to cut or

28 puncture any tire of any vehicle or injure any animal traveling thereon. This subdivision shall  
29 not apply to the use of any tire deflation device by a law-enforcement officer while in the  
30 discharge of his official duties, provided the device was approved for use by the Division of  
31 Purchase and Supply.

32 ~~(8) [Repealed.]~~

33 **Drafting note: "Caltrops," a device with four metal points so arranged that when**  
34 **any three are on the ground the fourth projects upward as a hazard to the hooves of**  
35 **horses or to pneumatic tires, is added to the list of metal that may not be put onto a**  
36 **highway. Technical changes are made.**

37 § ~~33.1-346~~ 33.2-802. Dumping trash, ~~companion animals, etc. on highway, right-of-way~~  
38 ~~or private property~~; penalty.

39 A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage,  
40 refuse, litter, a companion animal as defined in § 3.2-6500 for the purpose of disposal, or other  
41 unsightly matter; on public property, including a public highway, right-of-way, or property  
42 adjacent to such highway or right-of-way, or on private property without the written consent of  
43 the owner ~~thereof~~ or his agent.

44 B. When any person is arrested for a violation of this section, and the matter alleged to  
45 have been illegally dumped or disposed of has been ejected from a motor vehicle or transported  
46 to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of §  
47 46.2-936 in making ~~such an~~ arrest.

48 When a violation of the provisions of this section has been observed by any person, and  
49 the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle,  
50 the owner or operator of ~~such the~~ motor vehicle shall be presumed to be the person ejecting or  
51 disposing of ~~such the~~ matter. However, such presumption shall be rebuttable by competent  
52 evidence.

53 C. Any person convicted of a violation of this section ~~shall be~~ is guilty of a misdemeanor  
54 punishable by confinement in jail for not more than 12 months and a fine of not less than \$250

55 or more than \$2,500, either or both. In lieu of the imposition of confinement in jail, the court  
56 may order the defendant to perform a mandatory minimum of 10 hours of community service in  
57 litter abatement activities.

58 D. The governing bodies of ~~counties, cities and towns are hereby authorized to~~ localities  
59 may adopt ordinances not in conflict with the provisions of this section, and may repeal, or  
60 amend ~~or modify~~ such ordinances.

61 E. The provisions of this section shall not apply to the lawful disposal of such matter in  
62 landfills.

63 **Drafting note: Existing § 33.1-346 was amended by Chapter 156 of the 2013 Acts of**  
64 **Assembly, and those changes are reflected in the existing language here. A cross-reference**  
65 **to the definition of "companion animal" is added in subsection A and "localities" replaces**  
66 **"counties, cities and towns" in subsection D in accordance with the definition in § 1-221.**

67 ~~§ 33.1-346.1.~~

68 **Drafting note: Repealed by Acts 2013, c. 156.**

69 ~~§ 33.1-347~~ 33.2-803. Dump creating fire hazard to public bridge; penalty.

70 It shall be unlawful for any person to establish or maintain a public or private dump  
71 containing ~~inflammable~~ flammable articles within ~~500'~~ 500 feet of any public bridge constructed  
72 wholly or partly of wood so as to create a fire hazard to such bridge. Any person violating this  
73 section ~~shall be is~~ guilty of a Class 1 misdemeanor ~~and punished as provided by law~~. Each day  
74 of operation in violation ~~hereof of this section~~ shall constitute a separate offense. An offense  
75 ~~hereunder in violation of this section~~ may be enjoined in the manner provided by law for the  
76 abatement of public nuisances.

77 **Drafting note: "Inflammable" is changed to "flammable" for clarity, as both words**  
78 **have the same meaning and flammable is used more often in the Code. The addition of**  
79 **"Class 1" in describing the misdemeanor is added in keeping with the Code Commission**  
80 **guidance that since misdemeanors with no stated punishment or maximum punishment**  
81 **are designated as Class 1 misdemeanors according to § 18.2-12, they should be stated as**

82 **such in the Code when sections are amended or revised. Other changes are technical and**  
83 **in keeping with current practice.**

84 § ~~33.1-348~~ 33.2-804. Junkyards; penalty.

85 ~~(a) A.~~ For the purpose of promoting the public safety, health, welfare, convenience, and  
86 enjoyment of public travel, ~~to protect~~ protecting the public investment in public highways, and  
87 ~~to preserve~~ preserving and ~~enhance~~ enhancing the scenic beauty of lands bordering public  
88 highways, it is hereby declared to be in the public interest to regulate and restrict the  
89 establishment, operation, and maintenance of junkyards in areas adjacent to the highways within  
90 ~~this the~~ Commonwealth.

91 ~~(b) For the purpose of B. As used in~~ this section ~~the following definitions shall apply:~~

92 ~~(1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash,~~  
93 ~~rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron,~~  
94 ~~steel, and other old or scrap ferrous or nonferrous material.~~

95 ~~(2) "Automobile graveyard" shall mean~~ means any lot or place ~~which that~~ is exposed to  
96 the weather and upon which more than five motor vehicles of any kind that are incapable of  
97 being operated and which it would not be economically practical to make operative, are placed,  
98 located, or found. The movement or rearrangement of vehicles within an existing lot or facility  
99 does not render this definition inapplicable. The provisions established by this ~~subdivision~~  
100 subsection shall begin with the first day that the vehicle is placed on the subject property.

101 ~~(3) "Junkyard" shall mean an establishment or place of business which is maintained,~~  
102 ~~operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or~~  
103 ~~operation of an automobile graveyard, and the term shall include garbage dumps and sanitary~~  
104 ~~fills.~~

105 ~~(4) "Interstate system" shall mean the system presently defined in § of 103 of Title 23,~~  
106 ~~United States Code.~~

107 ~~(5) "Primary highway" shall mean any highway within the State Highway System~~  
108 primary state highway system as established and maintained under Article 2 (§ ~~33.1-25~~ 33.2-

109 ~~XXX~~ et seq.), ~~of~~ Chapter 1 ~~of this title~~, including extensions of such ~~System~~ system within  
110 municipalities.

111 ~~(6)~~ "Federal-aid primary highway" ~~shall mean~~ means any highway within that portion of  
112 the ~~State Highway System~~ primary state highway system as established and maintained under  
113 Article ~~2~~ XXX (§ ~~33.1-25~~ 33.2-XXX et seq.); ~~of~~ Chapter ~~1 of this title~~ 2, including extensions of  
114 such ~~System~~ system within municipalities, ~~which has~~ that have been approved by the U.S.  
115 Secretary of Commerce pursuant to ~~§ of 103 of Title 23, United States Code~~ 23 U.S.C. §  
116 103(b).

117 "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber,  
118 debris, or waste; junked, dismantled, or wrecked automobiles or parts thereof; and old or scrap  
119 iron, steel, or other ferrous or nonferrous material.

120 "Junkyard" means an establishment or place of business that is maintained, operated, or  
121 used for storing, keeping, buying, or selling junk or for the maintenance or operation of an  
122 automobile graveyard. "Junkyard" includes garbage dumps and sanitary landfills.

123 ~~(7)~~ "Visible" ~~shall mean~~ means capable of being seen without visual aid by a person of  
124 normal visual acuity.

125 ~~(8)~~ "National Highway System" ~~shall mean the federal-aid highway system referenced in~~  
126 ~~§ 103 of Title 23, United States Code, and regulations adopted pursuant thereto, which includes~~  
127 ~~those highways that are designated as such by congressional action or designation by the U.S.~~  
128 ~~Secretary of Transportation. Prior to congressional approval or designation by the U.S.~~  
129 ~~Secretary of Transportation, highways classified as National System of Interstate and Defense~~  
130 ~~Highways, Dwight D. Eisenhower National System of Interstate and Defense Highways,~~  
131 ~~Interstate System, or federal-aid primary highways as that system existed on June 1, 1991, shall~~  
132 ~~be considered as the National Highway System.~~

133 ~~(e)~~ C. No junkyard shall be ~~hereafter~~ established; any portion of which is within ~~1,000'~~  
134 1,000 feet of the nearest edge of the right-of-way of any National Highway System highways or

135 primary highway or within ~~500'~~ 500 feet of the nearest edge of the right-of-way of any other  
136 highway or city street, except the following:

137 ~~(1)~~ 1. Junkyards ~~which that~~ are screened by natural objects, plantings, fences, or other  
138 appropriate means so as not to be visible from the main-traveled way of the highway or city  
139 street, or otherwise removed from sight.

140 ~~(2)~~ 2. Junkyards ~~which that~~ are located in areas ~~which that~~ are zoned for industrial use  
141 under authority of state law or in unzoned industrial areas as determined by the ~~Commonwealth~~  
142 ~~Transportation~~ Board.

143 ~~(3)~~ 3. Junkyards ~~which that~~ are not visible from the main-traveled way of the highway or  
144 city street.

145 ~~(d)~~ D. Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~  
146 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any  
147 interstate or federal-aid primary highway, and not located within an industrial area, shall be  
148 screened, if feasible, by the Commissioner of Highways at locations on the highway right-of-  
149 way or in areas acquired for such purposes outside the right-of-way, so as not to be visible from  
150 the main-traveled way of such highways.

151 Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~ 1,000  
152 feet of the nearest edge of the right-of-way of any other primary highway or within ~~500'~~ 500 feet  
153 of the nearest edge of the right-of-way of any other highway and visible from the main-traveled  
154 way of such highway, and not located within an industrial area, may be screened by the  
155 Commissioner of Highways in the same manner as junkyards adjacent to National Highway  
156 System highways.

157 The Commissioner of Highways is ~~hereby~~ authorized to acquire by purchase, gift, or the  
158 power of eminent domain such lands or interests in lands as may be necessary to provide  
159 adequate screening of such junkyards.

160 ~~(e)~~ E. When the Commissioner of Highways determines that the topography of the land  
161 adjoining a National Highway System highway will not permit adequate screening of such

162 junkyards or the screening of such junkyards would not be economically feasible, the  
163 Commissioner of Highways shall have the authority to acquire by gift, purchase, or the power of  
164 eminent domain; such interests in lands as may be necessary to secure the relocation, removal,  
165 or disposal of the junkyards; and to pay for the costs of their relocation, removal, or disposal;  
166 ~~thereof~~. When the Commissioner of Highways determines that the topography of the land  
167 adjoining any other highway will not permit adequate screening or such would not be feasible,  
168 the Commissioner of Highways may exercise the same authority to relocate such junkyards as is  
169 vested in him in regard to National Highway System highways.

170 ~~(f) F.~~ Any junkyard ~~which that~~ comes into existence after April 4, 1968, and ~~which that~~  
171 cannot be made to conform to this section; is declared to be a public and private nuisance and  
172 may be forthwith removed, obliterated, or abated by the Commissioner of Highways or his  
173 representatives. The Commissioner of Highways may collect the cost of such removal,  
174 obliteration, or abatement from the person owning or operating ~~such the~~ junkyard.

175 ~~(g) G.~~ The ~~Commonwealth Transportation~~ Board is authorized to enter into agreements  
176 with the United States as provided in 23 U.S.C. § 136 with respect to control of junkyards.

177 ~~(h) H.~~ The Commissioner of Highways shall not be required to expend any funds for  
178 screening or relocation under this section unless and until federal-aid matching funds are made  
179 available for this purpose.

180 ~~(i) I.~~ Any person violating any provision of this section ~~shall be is~~ guilty of a Class 1  
181 misdemeanor.

182 **Drafting note: Existing § 33.1-348 was amended by Chapter 127 of the 2013 Acts of**  
183 **Assembly and those changes are reflected in the existing language here. Definitions are**  
184 **placed in alphabetical order and further conformed to the style of the Code. The**  
185 **definitions for "Interstate system" and "National Highway System" are stricken because**  
186 **they are defined for the title in proposed § 33.2-100.**

187 **The addition of "Class 1" in describing the misdemeanor in subsection I is added in**  
188 **keeping with the Code Commission guidance that since misdemeanors with no stated**

189 **punishment or maximum punishment are designated as Class 1 misdemeanors according**  
190 **to § 18.2-12, they should be stated as such in the Code when sections are amended or**  
191 **revised. Technical changes are made.**

192 | ~~§§ 33.1-349., 33.1-350.~~

193 **Drafting note: Repealed by Acts 1975, c. 589.**

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CHAPTER 13.

WOODROW WILSON BRIDGE AND TUNNEL COMPACT.

**Drafting note: This compact, which is currently published and set out with other Title 33.1 compacts in the Compacts volume, is given a section number in the Code of Virginia and placed in this proposed chapter within proposed Title 33.2 for reference only and will not be set out within the Title 33.2 volume in furtherance of the policy of the Code Commission.**

§ ~~33.1-320.2~~ 33.2-1300. Preamble; Woodrow Wilson Bridge and Tunnel Compact.

Whereas, traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated \$1,000 per year; and

Whereas, the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020; and

Whereas, the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion; and

Whereas, the Bridge serves as a vital link in the Interstate Highway System and in the Northeast corridor; and

Whereas, identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area; and

Whereas, the Bridge is the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System; and

Whereas, the Bridge is the only segment of the Capital Beltway with only six lanes; and

Whereas, the Bridge is the only segment of the Capital Beltway with a remaining expected life of less than 10 years; and

Whereas, the Bridge is the only part of the Interstate Highway System owned by the federal government; and

Whereas, the Bridge was constructed by the federal government; and

28           Whereas, prior to the date of the enactment of this Act, the federal government will have  
29 contributed 100 percent of the cost of building and rehabilitating the Bridge; and

30           Whereas, the federal government has a continuing responsibility to fund future costs  
31 associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation  
32 and construction of the Bridge; and

33           Whereas, the Woodrow Wilson Memorial Bridge Coordination Committee is  
34 undertaking planning studies pertaining to the Bridge, consistent with the National  
35 Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) and other applicable federal laws;  
36 and

37           Whereas, the transfer of ownership of the Bridge to a regional authority under the terms  
38 and conditions described in this Act would foster regional transportation planning efforts to  
39 identify solutions to the growing problem of traffic congestion on and around the Bridge; and

40           Whereas, the Authority shall maximize the use of existing public or private sector  
41 entities to provide necessary project services, including management, construction, legal,  
42 accounting, and operating services and not create a new bureaucracy or organizational structure;  
43 and

44           Whereas, any material change to the Bridge must take into account the interests of  
45 nearby communities, the commuting public, federal, state, and local government organizations,  
46 and other affected groups; and

47           Whereas, a commission of congressional, state, and local officials and transportation  
48 representatives has recommended to the Secretary of the United States Department of  
49 Transportation that the Bridge be transferred to an independent authority to be established by  
50 the State of Maryland, the District of Columbia and the Commonwealth of Virginia; now,  
51 therefore,

52           The State of Maryland, the District of Columbia and the Commonwealth of Virginia,  
53 hereinafter referred to as the signatories, do hereby covenant and agree as follows:

54 WOODROW WILSON BRIDGE AND TUNNEL COMPACT.

55 CHAPTER I.

56 GENERAL COMPACT PROVISIONS.

57 Article I.

58 Authority Created.

59 There is hereby created the Woodrow Wilson Bridge and Tunnel Authority, hereinafter  
60 referred to as the "Authority."

61 Article II.

62 Powers and Duties.

63 The Authority shall be an instrumentality and common agency of the Commonwealth of  
64 Virginia, the District of Columbia and the State of Maryland, and shall have the powers and  
65 duties set forth in this compact and such additional powers and duties as may be conferred upon  
66 it by subsequent action of the signatories.

67 Article III.

68 Board; Terms of Office; Officers.

69 1. The Authority shall be governed by a board of nine voting and two nonvoting  
70 members appointed as follows:

- 71 a. Three members shall be appointed by the Governor of the Commonwealth of Virginia;  
72 b. Three members shall be appointed by the Governor of the State of Maryland;  
73 c. Two members shall be appointed by concurrence of the Mayor of the District of  
74 Columbia and the Governors of Maryland and Virginia;  
75 d. One member shall be appointed by the U.S. Secretary of Transportation; and  
76 e. Two additional members, who shall be nonvoting members, shall be appointed by the  
77 Mayor of the District of Columbia.

78 2. Members, other than members who are elected officials, shall have backgrounds in  
79 finance, construction lending, and infrastructure policy disciplines. At least one member of the  
80 Board from Maryland and one member of the Board from Virginia shall be elected officials

81 each of whom represents a political subdivision that has jurisdiction over the area at an end of  
82 the project bridge, bridges or tunnels.

83 3. No person in the employment of or holding any official relationship to any person or  
84 company doing business with the Authority, or having any interest of any nature in any such  
85 person or company or affiliate or associate thereof, shall be eligible for appointment as a  
86 member or to serve as an employee of the Authority or to have any power or duty or receive any  
87 compensation in relation thereto.

88 4. The Chairperson of the Authority shall be elected from among the voting members on  
89 a biennial basis.

90 5. The members may also elect a secretary and a treasurer, or a secretary-treasurer, who  
91 may be members of the Authority, and prescribe their duties and powers.

92 6. Each member shall serve a six-year term, except that each signatory shall make its  
93 initial appointments as follows:

94 a. One member appointed by the Governor of Maryland and one member appointed by  
95 the Governor of Virginia shall each be appointed for a six-year term;

96 b. One member appointed by the Governor of Maryland and one member appointed by  
97 the Governor of Virginia shall each be appointed for a four-year term;

98 c. One member appointed by the Governor of Maryland and one member appointed by  
99 the Governor of Virginia shall each be appointed for a two-year term;

100 d. One member appointed by concurrence of the Governors of Maryland and Virginia  
101 and the Mayor of the District of Columbia shall be appointed for a six-year term;

102 e. One member appointed by concurrence of the Governors of Maryland and Virginia  
103 and the Mayor of the District of Columbia shall be appointed for a four-year term; and

104 f. The member appointed by the U.S. Secretary of Transportation shall be appointed for  
105 a two-year term.

106 g. The initial terms of the nonvoting members appointed by the Mayor of the District of  
107 Columbia shall be as follows:

108 (1) One member shall be appointed for a six-year term; and

109 (2) One member shall be appointed for a four-year term.

110 7. The failure of a signatory or the Secretary of Transportation to appoint one or more  
111 members shall not impair the Authority's creation or operations when the signatories and  
112 Authority are in compliance with the other terms of this compact.

113 8. Any person appointed to fill a vacancy shall serve for the unexpired term. A member  
114 of the Authority may not serve for more than two full terms.

115 9. The members of the Authority, including nonvoting members, shall not be personally  
116 liable for any act done or action taken in their capacities as members of the Authority, nor shall  
117 they be personally liable for any bond, note, or other evidence of indebtedness issued by the  
118 Authority.

119 10. Six members shall constitute a quorum, with the following exceptions:

120 a. Seven affirmative votes shall be required to approve bond issues and the annual  
121 budget of the Authority.

122 b. A motion may not be approved if all three members appointed solely by one Governor  
123 cast negative votes.

124 11. Any sole source procurement of goods, services, or construction in excess of  
125 \$250,000 shall require the prior approval of a majority of all of the voting members of the  
126 Authority.

127 12. Members shall serve without compensation and shall reside within the Washington,  
128 D.C., metropolitan area. Members shall be entitled to reimbursement for their expenses incurred  
129 in attending the meetings of the Authority and while otherwise engaged in the discharge of their  
130 duties as members of the Authority.

131 13. The Authority may employ such engineering, technical, legal, clerical, and other  
132 personnel on a regular, part-time, or consulting basis as in its judgment may be necessary for the  
133 discharge of its duties. The Authority shall not be bound by any statute or regulation of any  
134 signatory in the employment or discharge of any officer or employee of the Authority, except

135 that Article 3 (§ 40.1-58 et seq.) of Chapter 4 of Title 40.1 of the Code of Virginia shall be  
136 applicable to employees whose situs of employment is in the Commonwealth of Virginia.

137 14. a. The Authority shall establish its office for the conduct of its affairs at a location to  
138 be determined by the Authority and shall publish rules and regulations governing the conduct of  
139 its operations.

140 b. (1) The Authority may adopt rules and regulations which shall include, but shall not  
141 be limited to, an ethics code, public access to information, administrative procedures, and open  
142 meetings and shall be consistent with similar practices currently adopted in Maryland, Virginia,  
143 or the District of Columbia.

144 (2) The Authority may adopt regulations after publication of notice of intention to adopt  
145 such regulations published in a newspaper of general circulation in the metropolitan  
146 Washington, D.C., area and after an opportunity for public comment.

147 (3) The Authority shall also publish a notice to adopt such regulations in the Maryland  
148 Register and in the Virginia Register.

#### 149 Article IV.

#### 150 Signatories; Taxing Powers.

151 Nothing herein shall be construed to amend, alter, or in any way affect the power of the  
152 signatories and their political subdivisions to levy and collect taxes on property or income or  
153 upon the sale of any material, equipment, or supplies or to levy, assess, and collect franchise or  
154 other similar taxes or fees for the licensing of vehicles and the operation thereof.

#### 155 Article V.

#### 156 Adoption of Compact by Signatories; Withdrawal; Cooperation.

157 1. This compact shall be adopted by the signatories in the manner provided by law. This  
158 compact shall become effective after the State of Maryland and the District of Columbia have  
159 passed acts similar in substance to this Act.

160 2. Any signatory may withdraw from the compact upon one year's written notice to that  
161 effect to the other signatories. In the event of a withdrawal of one of the signatories from the

162 compact, the compact shall be terminated; provided, however, that no revenue bonds, notes, or  
163 other evidence of obligation issued pursuant to Article VII of Chapter II, or any other financial  
164 obligations of the Authority remain outstanding and that the withdrawing signatory has made a  
165 full accounting of its financial obligations, if any, to the other signatories.

166 3. Upon the termination of this compact, the jurisdiction over the matters and persons  
167 covered by this compact shall revert to the signatories and the federal government, as their  
168 interests may appear.

169 4. Each of the signatories pledges to each of the other signatory parties faithful  
170 cooperation in the development and implementation of the project.

#### 171 Article VI.

##### 172 Terms of Agreement Between Signatories.

173 The Authority shall not undertake the ownership of the existing Woodrow Wilson  
174 Bridge, or any duties or responsibilities associated therewith, nor undertake any of the  
175 responsibilities and powers provided in this Act until the Governors of the State of Maryland  
176 and the Commonwealth of Virginia and the Mayor of the District of Columbia have entered into  
177 an agreement with the U.S. Secretary of Transportation including provisions governing the  
178 transfer of the existing Bridge from the federal government to the Authority, and which shall  
179 provide for a contractual commitment by the federal government to provide federal funding for  
180 the project, including, at a minimum, a 100 percent federal share for the following:

181 (1) The cost of continuing rehabilitation of the Bridge until such time as the project is  
182 operational;

183 (2) An amount, as determined by the Woodrow Wilson Memorial Bridge Coordination  
184 Committee, equivalent to the cost of replacing the Bridge with a comparable modern bridge  
185 designed according to current engineering standards;

186 (3) The cost of planning, preliminary engineering and design, right-of-way acquisition,  
187 environmental studies and documentation, and final engineering for the project; and

188 (4) A substantial contribution towards remaining project costs.



215 In the conduct of its responsibilities and duties, the Authority shall maximize the use of  
216 existing public and private sector entities to provide necessary services, including management,  
217 construction, legal, accounting, and other services, as the Authority may deem necessary.

218 Article VIII.

219 Jurisdiction of Courts; Liability for Contracts and Torts.

220 1. Except as provided herein, the Authority shall be liable for its contracts and for its  
221 torts and those of its directors, officers, employees, and agents. For tort actions arising out of  
222 conduct occurring in Maryland, Maryland tort and sovereign immunity law shall apply. The  
223 exclusive remedy for such breach of contracts and torts for which the Authority shall be liable,  
224 as herein provided, shall be by suit against the Authority. Nothing contained in this Act shall be  
225 construed as a waiver by Maryland, the District of Columbia, or Virginia of any immunity from  
226 suit.

227 2. The United States district courts shall have original jurisdiction, concurrent with the  
228 courts of Virginia, the District of Columbia, and Maryland, of all actions brought by or against  
229 the Authority. Any such action initiated in a state court or the superior court of the District of  
230 Columbia shall be removable to the appropriate United States district court in the manner  
231 provided by act of June 25, 1948, as amended (28 U.S.C. § 1446).

232 3. If any part or provision of this compact or the application thereof to any person or  
233 circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall  
234 be confined in its operation to the part, provision or application directly involved in the  
235 controversy in which such judgment shall have been rendered and shall not affect or impair the  
236 validity of the remainder of this compact or the application thereof to other persons or  
237 circumstances, and the signatories hereby declare that they would have entered into this  
238 compact or the remainder thereof had the invalidity of such provision or application thereof  
239 been apparent.

240 4. This compact shall be liberally construed to effectuate the purposes for which it is  
241 created.

242 CHAPTER II.  
243 ADDITIONAL POWERS; FINANCING; PROPERTY ACQUISITION; PROCUREMENT.  
244 Article I.  
245 Definitions.

246 As used in this Act the following words shall have the following meanings:

247 "Bonds" or "revenue bonds" means bonds and notes or refunding bonds and notes or  
248 bond anticipation notes or other obligations of the Authority issued under the provisions of this  
249 Act.

250 "Cost," as applied to the project, means the cost of acquisition of all lands, structures,  
251 rights-of-way, franchises, easements and other property rights and interests; the cost of lease  
252 payments; the cost of construction; the cost of demolition of the current structure; the cost of  
253 demolishing, removing or relocating any buildings or structures on lands acquired, including the  
254 cost of acquiring any lands to or on which such buildings or structures may be moved, relocated,  
255 or reconstructed; the cost to relocate residents or businesses from properties acquired for the  
256 project; the cost of any extensions, enlargements, additions and improvements; the cost of all  
257 labor, materials, machinery and equipment; all financing charges, and interest on all bonds prior  
258 to and during construction; and, if deemed advisable by the Authority of such construction, the  
259 cost of engineering, financial and legal services; plans, specifications, studies, and surveys;  
260 estimates of cost and of revenues and other expenses necessary or incident to determining the  
261 feasibility or practicability of constructing the project; administrative expenses; provisions for  
262 working capital; reserves for interest and for extensions, enlargements, additions and  
263 improvements; the cost of bond insurance and other devices designed to enhance the  
264 creditworthiness of the bonds; and such other expenses as may be necessary or incidental to the  
265 construction of the project, the financing of such construction and the planning of the project in  
266 operation.

267 "Owner" includes all persons having any interest or title in and to property, rights,  
268 franchises, easements and interests authorized to be acquired by this Act.

269 "Project" means the upgrading of the Interstate Route 95 Potomac River crossing in  
270 accord with the selected alternative developed by the Woodrow Wilson Memorial Bridge  
271 Coordination Committee. "Project" includes ongoing short-term rehabilitation and repair of the  
272 Bridge and may include one or more of the following:

- 273 1. Construction of a new bridge or bridges in the vicinity of the Bridge;
- 274 2. Construction of a tunnel in the vicinity of the Bridge;
- 275 3. Long-term rehabilitation or reconstruction of the Bridge;
- 276 4. Upon the bridges or within the tunnel described in subparagraphs 1, 2, and 3 of this  
277 paragraph, or in conjunction with work on Interstate Route 95 and other approach roadways as  
278 described in subparagraph 5 of this paragraph:

279 a. Work necessary to provide rights-of-way for a rail transit facility or bus or high  
280 occupancy vehicle lanes, including the construction or modifications of footings, piers, bridge  
281 decks, roadways, other structural support systems and related improvements; or

282 b. The construction of travel lanes for high occupancy vehicles or buses;

283 5. Work on Interstate Route 95 and other approach roadways if necessitated by, or  
284 necessary to accomplish, an activity described in subparagraph 1, 2, or 3 of this paragraph; or

285 6. Construction or acquisition of any building, improvement, addition, replacement,  
286 appurtenance, land, interest in land, easement, water right, air right, machinery, equipment,  
287 furnishing, landscaping, utility, roadway, or other facility that is necessitated by or necessary to  
288 accomplish an activity described in this paragraph.

289 Article II.

290 Additional Powers of the Authority.

291 Without in any manner limiting or restricting the powers heretofore given to the  
292 Authority, and contingent upon the execution of the agreement referred to in Chapter I, Article  
293 VI, the Authority is hereby authorized and empowered:

- 294 1. To establish, finance, construct, maintain, repair and operate the project;
- 295 2. To assume full rights of ownership of the existing Woodrow Wilson Bridge;

296           3. Subject to the approval of the Governor of Maryland, the Mayor of the District of  
297 Columbia, and the Virginia Commonwealth Transportation Board of the portions of the project  
298 in their respective jurisdictions, and in accordance with the recommendations of the Woodrow  
299 Wilson Memorial Bridge Coordination Committee, to determine the location, character, size and  
300 capacity of the project; to establish, limit and control such points of ingress to and egress from  
301 the project as may be necessary or desirable in the judgment of the Authority to ensure the  
302 proper operation and maintenance of the project; and to prohibit entrance to such project from  
303 any point or points not so designated;

304           4. To secure all necessary federal, state, and local authorizations, permits and approvals  
305 for the construction, maintenance, repair and operation of the project;

306           5. To adopt and amend bylaws for the regulation of its affairs and the conduct of its  
307 business;

308           6. To adopt and amend rules and regulations to carry out the powers granted by this  
309 section;

310           7. To acquire, by purchase or condemnation, in the name of the Authority, and to hold  
311 and dispose of real and personal property for the corporate purposes of the Authority;

312           8. To employ consulting engineers, a superintendent or manager of the project, and such  
313 other engineering, architectural, construction, accounting experts, inspectors, attorneys, and  
314 other employees as may be necessary; and, within the limitations prescribed in this Act, to  
315 prescribe their powers and duties, and fix their compensation;

316           9. To pay, from any available moneys, the cost of plans, specifications, surveys,  
317 estimates of cost and revenues, legal fees and other expenses necessary or incident to  
318 determining the feasibility or practicability of financing, constructing, maintaining, repairing  
319 and operating the project;

320           10. To issue revenue bonds of the Authority, for any of its corporate purposes, payable  
321 solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as  
322 provided in this Act;

323 11. To fix and revise from time to time and to charge and collect tolls and other charges  
324 for the use of the project;

325 12. To make and enter into all contracts or agreements, as the Authority may determine,  
326 which are necessary or incidental to the performance of its duties and to the execution of the  
327 powers granted under this Act. The Authority may contract with any governmental agency or  
328 instrumentality for services within the power of the agency or authority related to the financing,  
329 construction or operation of the facilities and services to be provided;

330 13. To accept loans and grants of money, or materials or property at any time from the  
331 United States of America, the Commonwealth of Virginia, the State of Maryland, the District of  
332 Columbia or any agency or instrumentality thereof;

333 14. To adopt an official seal and alter the same at its pleasure;

334 15. Subject to Chapter I, Article VIII, to sue and be sued, plead and be impleaded, all in  
335 the name of the Authority;

336 16. To exercise any power usually possessed by private corporations performing similar  
337 functions including the right to expend, solely from funds provided under the authority of this  
338 Act, such funds as may be considered by the Authority to be advisable or necessary in  
339 advertising its facilities and services to the traveling public;

340 17. To enter into contracts with existing governmental entities in the Commonwealth of  
341 Virginia, the State of Maryland, or the District of Columbia, or with private entities, the purpose  
342 of which contracts or agreements would be to allow such parties to undertake all or portions of  
343 the project, including but not limited to design, engineering, financing, construction, and  
344 operation of the project, as the Authority may deem necessary;

345 18. To establish and maintain a police force, or to enter into a contract with an existing  
346 governmental entity in the State of Maryland, the Commonwealth of Virginia, or the District of  
347 Columbia to provide police services, as the Authority may deem necessary;

348 19. To enter into partnerships or grant concessions between the public and private  
349 sectors for the purpose of:

- 350 a. Financing, constructing, maintaining, improving or operating the project; or
- 351 b. Fostering development of new transportation-related technologies to be used in the
- 352 construction or operation of the project, utilizing for such purposes the law of any signatory, as
- 353 the Authority may in its sole discretion determine;
- 354 20. To carry out or contract with other entities to carry out such maintenance of traffic
- 355 activities during the construction of the project as is considered necessary by the Authority to
- 356 manage traffic and minimize congestion such as public information campaigns, improvements
- 357 designed to encourage appropriate use of alternative routes, use of high occupancy vehicles and
- 358 transit services, and deployment and operation of intelligent transportation technologies; and
- 359 21. To do all acts and things necessary or incidental to the performance of its duties and
- 360 the execution of its powers under this Act.

361 Article III.

362 Incidental Powers.

363 The Authority shall have power to construct grade separations at intersections of the

364 project with public highways and to change and adjust the lines and grades of such highways so

365 as to accommodate the same to the design of such grade separation. The cost of such grade

366 separations and any damage incurred in changing and adjusting the lines and grades of such

367 highways shall be ascertained and paid by the Authority as a part of the cost of the project.

368 If the Authority shall find it necessary to change the location of any portion of any

369 public highway, it shall cause the same to be reconstructed at such location as the Authority

370 shall deem most favorable and be of substantially the same type and in as good condition as the

371 original highway. The cost of such reconstruction and any damage incurred in changing the

372 location of any such highway shall be ascertained and paid by the Authority as a part of the cost

373 of the project.

374 Any public highway affected by the construction of the project may be vacated or

375 relocated by the Authority in the manner now provided by law for the vacation or relocation of

376 public roads, and any damages awarded on account thereof shall be paid by the Authority as a  
377 part of the cost of the project.

378 The Authority shall also have power to make regulations for the installation,  
379 construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains,  
380 conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public  
381 utility facilities") of any public utility in, on, along, over or under the project. Whenever the  
382 Authority shall determine that it is necessary that any such public utility facilities which now  
383 are, or hereafter may be, located in, on, along, over or under the project should be relocated in  
384 the project, or should be removed from the project, the public utility owning or operating such  
385 facilities shall relocate or remove the same in accordance with the order of the Authority,  
386 provided that the cost and expenses of such relocation or removal, including the cost of  
387 installing such facilities in a new location or new locations, and the cost of any lands, or any  
388 rights or interests in lands, and any other rights, acquired to accomplish such relocation or  
389 removal, shall be ascertained and paid by the Authority as a part of the cost of the project. In  
390 case of any such relocation or removal of facilities, the public utility owning or operating the  
391 same, its successors or assigns, may maintain and operate such facilities, with the necessary  
392 appurtenances, in the new location or new locations, for as long a period, and upon the same  
393 terms and conditions, as it had the right to maintain and operate such facilities in their former  
394 location or locations.

395 Article IV.

396 Acquisition of Property.

397 The Authority is hereby authorized and empowered to acquire by purchase, whenever it  
398 shall deem such purchase expedient, solely from funds provided under the authority of this Act,  
399 such lands, structures, rights-of-way, property, rights, franchises, easements and other interest in  
400 lands, including lands lying under water and riparian rights, which are located within the  
401 Washington, D.C., metropolitan area, as it may deem necessary or convenient for the  
402 construction and operation of the project, upon such terms and at such prices as may be

403 considered by it to be reasonable and can be agreed upon between it and the owner thereof; and  
404 to take title thereto in the name of the Authority.

405 All counties, cities, towns and other political subdivisions and all public agencies and  
406 authorities of the signatories, notwithstanding any contrary provision of law, are hereby  
407 authorized and empowered to lease, lend, grant or convey to the Authority at the Authority's  
408 request, upon such terms and conditions as the governing bodies of such counties, cities, towns,  
409 political subdivisions, agencies or authorities may deem reasonable and fair and without the  
410 necessity for any advertisement, order of court or other action or formality, other than the  
411 regular and formal action of the authorities concerned, any real property which may be  
412 necessary or convenient to the effectuation of the authorized purposes of the Authority,  
413 including public roads and other real property already devoted to public use.

414 Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally  
415 incapacitated or is absent, unknown or unable to convey valid title, the Authority is hereby  
416 authorized and empowered to acquire by condemnation or by the exercise of the power of  
417 eminent domain any lands, property, rights, rights-of-way, franchises, easements and other  
418 property deemed necessary or convenient for the construction or the efficient operation of the  
419 project or necessary in the restoration of public or private property damaged or destroyed.

420 Whenever the Authority acquires property under this article, it shall comply with the  
421 applicable federal law relating to relocation and relocation assistance. If there is no applicable  
422 federal law, the Authority shall comply with the provisions of the state law of the signatory in  
423 which the property is located governing relocation and relocation assistance.

424 In advance of undertaking any acquisition of property or easements in Maryland or the  
425 condemnation of such property, the Authority must obtain from the Maryland Board of Public  
426 Works approval of a plan identifying the properties or easements to be obtained for the project.  
427 In advance of undertaking any acquisition of property or easements in Virginia or the  
428 condemnation of such property, the Authority must obtain from the Virginia Commonwealth  
429 Transportation Board approval of a plan identifying the properties to be obtained for the project.

430 Condemnation proceedings shall be in accordance with the provisions of state law of the  
431 signatory in which the property is located governing condemnation by the highway agency of  
432 such state. Nothing in this act shall be construed to authorize the authority to condemn the  
433 property of the Commonwealth of Virginia, the District of Columbia, or the State of Maryland.

434 Article V.

435 Procurement.

436 1. Except as provided in subdivisions 2, 3, and 6 of this article, and except in the case of  
437 procurement procedures otherwise expressly authorized by law, the Authority in conducting a  
438 procurement of goods, services, or construction shall obtain full and open competition through  
439 the use of competitive procedures in accordance with the requirements of this section and use  
440 the competitive procedure or combination of procedures that is most suitable under the  
441 circumstances of the procurement.

442 The Authority shall solicit sealed bids if (i) time permits the solicitation, submission, and  
443 evaluation of sealed bids; (ii) the award will be made on the basis of price and other price-  
444 related factors; (iii) it is not necessary to conduct discussions with the responding sources about  
445 their bids; and (iv) there is a reasonable expectation of receiving more than one sealed bid. If the  
446 Authority does not solicit sealed bids, it shall request competitive proposals.

447 2. The Authority may use procedures other than competitive procedures if:

448 a. the goods, services, or construction needed by the Authority are available from only  
449 one responsible source and no other type of property, services, or construction will satisfy the  
450 needs of the Authority;

451 b. the Authority's need for the property, services, or construction is of such unusual and  
452 compelling urgency that the Authority would be seriously injured unless the Authority limits the  
453 number of sources from which it solicits bids or proposals; or

454 c. the goods or services needed can be obtained through federal or other governmental  
455 sources at reasonable prices.

456 3. For the purpose of applying subdivision 2 a of this article:

457 a. in the case of a contract for goods, services, or construction to be awarded on the basis  
458 of acceptance of an unsolicited proposal, the goods, services, or construction shall be deemed to  
459 be available from only one responsible source if the source has submitted an unsolicited  
460 proposal that demonstrates a concept:

461 (1) that is unique and innovative or, in the case of a service, for which the source  
462 demonstrates a unique capability to provide the service; and

463 (2) the substance of which is not otherwise available to the Authority and does not  
464 resemble the substance of a pending competitive procurement.

465 b. in the case of a follow-on contract for the continued development or production of a  
466 major system or highly specialized equipment or the continued provision of highly specialized  
467 services, the goods, services, or construction may be deemed to be available from only the  
468 original source and may be procured through procedures other than competitive procedures if it  
469 is likely that award to a source other than the original source would result in:

470 (1) substantial duplication of cost to the Authority that is not expected to be recovered  
471 through competition; or

472 (2) unacceptable delays in fulfilling the Authority's needs.

473 4. If the Authority uses procedures other than competitive procedures to procure  
474 property, services, or construction under subdivision 2 b of this article, the Authority shall  
475 request offers from as many potential sources as is practicable under the circumstances.

476 5. a. To promote efficiency and economy in contracting, the Authority may use  
477 simplified acquisition procedures for purchases of property, services and construction.

478 b. For the purposes of this section, simplified acquisition procedures may be used for  
479 purchases for an amount that does not exceed the simplified acquisition threshold adopted by  
480 the federal government.

481 c. A proposed purchase or contract for an amount above the simplified acquisition  
482 threshold may not be divided into several purchases or contracts for lesser amounts in order to  
483 use the procedures under subdivision a of this section.

484 d. In using simplified acquisition procedures, the Authority shall promote competition to  
485 the maximum extent practicable.

486 6. The Authority shall adopt policies and procedures to implement this article. The  
487 policies and procedures shall provide for publication of notice of procurements and other actions  
488 designed to secure competition where competitive procedures are used.

489 7. The Authority in its sole discretion may reject any and all bids or proposals received  
490 in response to a solicitation.

491 8. In structuring all procurements under this article, the Authority shall comply with  
492 federal laws and regulations, and other federal requirements set forth in grant agreements or  
493 elsewhere, as they may be amended from time to time, governing minority business enterprise  
494 participation.

495 Article VI.

496 Revenues.

497 The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of  
498 the project, and to contract with any person, partnership, association or corporation desiring the  
499 use of the project, and to fix the terms, conditions, rents and rates of charges for such use.

500 Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the  
501 project as to provide a fund sufficient in combination with other revenues, if any, to pay (i) the  
502 cost of maintaining, repairing and operating such project and (ii) the principal of and the interest  
503 on the bonds as the same shall become due and payable, and to create reserves for such  
504 purposes. Such tolls shall be not subject to supervision or regulation by any other authority,  
505 board, bureau, or agency of the Commonwealth of Virginia or the State of Maryland or the  
506 District of Columbia. The tolls and all other revenues derived from the project in connection  
507 with which the bonds of any issue shall have been issued, except such part thereof as may be  
508 necessary to pay such cost of maintenance, repair, and operation and to provide such reserves  
509 therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the  
510 trust indenture securing the same, shall be set aside at such regular intervals as may be provided

511 in such resolution or such trust indenture in a sinking fund which is hereby pledged to, and  
512 charged with, the payment of the principal of and the interest on such bonds as the same shall  
513 become due, and, upon the approval of the Governors of the Commonwealth of Virginia and the  
514 State of Maryland, and the Mayor of the District of Columbia, the redemption price or the  
515 purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be  
516 valid and binding from the time when the pledge is made; the tolls or other revenues or other  
517 moneys so pledged and thereafter received by the Authority shall immediately be subject to the  
518 lien of such pledge without any physical delivery thereof or further act, and the lien of any such  
519 pledge shall be valid and binding as against all parties having claims of any kind in tort,  
520 contract, or otherwise against the Authority, irrespective of whether such parties have notice  
521 thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed  
522 or recorded except in the records of the Authority. The use and disposition of moneys to the  
523 credit of such sinking fund shall be subject to the provisions of the resolution authorizing the  
524 issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such  
525 resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without  
526 distinction or priority of one over another.

527 Tolls shall not be set at rates such that toll revenues generated by the project exceed  
528 those necessary to meet requirements under any applicable trust indenture for the project.

#### 529 Article VII.

#### 530 Revenue Bonds.

531 The Authority is hereby authorized to provide for the issuance, at one time or from time  
532 to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of  
533 the project or of any portion or portions thereof. The principal of and the interest of such bonds  
534 shall be payable solely from the funds provided in this compact for such payment. Any bonds of  
535 the Authority issued pursuant to this article shall not constitute a debt of the Commonwealth, or  
536 any political subdivision thereof other than the Authority, and shall so state on their face.  
537 Neither the members of the Authority nor any person executing such bonds shall be liable

538 personally thereon by reason of the issuance thereof. The bonds of each issue shall be dated,  
539 shall bear interest at a rate or rates or in a manner, shall mature at such time or times not  
540 exceeding 40 years from their date or dates, as may be determined by the Authority, and may be  
541 made redeemable before maturity, at the option of the Authority, at such price or prices and  
542 under such terms and conditions as may be fixed by the Authority prior to the issuance of the  
543 bonds.

544         The Authority shall determine the form and the manner of execution of the bonds and  
545 shall fix the denomination or denominations of the bonds and the place or places of payment of  
546 principal and interest, which may be at any bank or trust company within or without the  
547 Commonwealth. In case any officer whose signature or a facsimile of whose signature shall  
548 appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds,  
549 such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the  
550 same as if he had remained in office until such delivery. The bonds may be issued in such form  
551 as the Authority may determine. The Authority may sell such bonds in such manner, either at  
552 public or private sale, and for such price as it may determine will best effect the purposes of this  
553 compact.

554         The proceeds of the bonds of each issue shall be used solely for the payment of the cost  
555 of the project, and shall be disbursed in such manner and under such restrictions, if any, as the  
556 Authority may provide in the resolution authorizing the issuance of such bonds or in the trust  
557 indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or  
558 otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide  
559 the amount of such deficit, and, unless otherwise provided in the resolution authorizing the  
560 issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the  
561 same issue and shall be entitled to payment from the same fund without preference or priority of  
562 the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the  
563 surplus shall be deposited to the credit of the sinking fund for such bonds.

564 Prior to the preparation of definitive bonds, the Authority may, under like restrictions,  
565 issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive  
566 bonds when such bonds shall have been executed and are available for delivery. The Authority  
567 may also provide for the replacement of any bonds which shall become mutilated or shall be  
568 destroyed or lost. Bonds may be issued under the provisions of this compact without obtaining  
569 the consent of any department, division, commission, board, bureau or agency of the compact  
570 signatories, and without any other proceedings or the happening of any other conditions or  
571 things than those proceedings, conditions or things which are specifically required by this  
572 article.

573 Article VIII.

574 Bonds Not to Constitute a Debt or Pledge of Taxing Power.

575 Revenue bonds issued under the provisions of this Act shall not be deemed to constitute  
576 a debt or a pledge of the faith and credit of the Authority or of any signatory government or  
577 political subdivision thereof, but such bonds shall be payable solely from the funds provided  
578 from tolls and other revenues. The issuance of revenue bonds under the provisions of this Act  
579 shall not directly or indirectly or contingently obligate the Authority, or any signatory  
580 government or political subdivision thereof, to levy or to pledge any form of taxation whatever.  
581 All such revenue bonds shall contain a statement on their face substantially to the foregoing  
582 effect.

583 Article IX.

584 Bonds Eligible for Investment.

585 Bonds issued by the Authority under the provisions of this Act are hereby made  
586 securities in which all public officers and public bodies of the Commonwealth and its political  
587 subdivisions, all insurance companies, trust companies, banking associations, investment  
588 companies, executors, administrators, trustees and other fiduciaries may properly and legally  
589 invest funds, including capital in their control or belonging to them. Such bonds are hereby  
590 made securities which may properly and legally be deposited with and received by any

591 Commonwealth or municipal officer or any agency or political subdivision of the  
592 Commonwealth for any purpose for which the deposit of bonds or obligations is now or may  
593 hereafter be authorized by law.

594 Article X.

595 Trust Funds.

596 All moneys received pursuant to this Act, whether as proceeds from the sale of bonds or  
597 as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this  
598 Act. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds  
599 shall provide that any officer with whom, or any bank or trust company with which, such  
600 moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same  
601 for the purposes thereof, subject to such regulations as this Act and such resolution or trust  
602 indenture may provide.

603 Article XI.

604 Trust Indenture.

605 In the discretion of the Authority, any bonds issued under the provisions of this Act may  
606 be secured by a trust indenture by and between the Authority and a corporate trustee, which may  
607 be any trust company or bank having the powers of a trust company within or without the  
608 Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds  
609 may pledge or assign the tolls and other revenues to be received, but shall not convey or  
610 mortgage the project or any part thereof.

611 Article XII.

612 Remedies.

613 Any holder of bonds issued under the provisions of this Act or any of the coupons  
614 appertaining thereto, and the trustee under any trust indenture, except to the extent the rights  
615 herein given may be restricted by such trust indenture or the resolution authorizing the issuance  
616 of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding,  
617 protect and enforce any and all rights under the laws of the Commonwealth of Virginia, the

618 State of Maryland, or the District of Columbia or granted hereunder or under such trust  
619 indenture or the resolution authorizing the issuance of such bonds, and may enforce and compel  
620 the performance of all duties required by this Act or by such trust indenture or resolution to be  
621 performed by the Authority or by any officer thereof, including the fixing, charging and  
622 collecting of tolls.

623 Article XIII.

624 Tax Exemption.

625 The exercise of the powers granted by this Act will be in all respects for the benefit of  
626 the people of the Commonwealth and for the increase of their commerce and prosperity, and as  
627 the operation and maintenance of the project will constitute the performance of essential  
628 governmental functions, the Authority shall not be required to pay any taxes or assessments  
629 upon the project or any property acquired or used by the Authority under the provisions of this  
630 Act or upon the income therefrom, and the bonds issued under the provisions of this Act, and  
631 the income therefrom, shall at all times be free from taxation within the Commonwealth.

632 Article XIV.

633 Miscellaneous.

634 Any action taken by the Authority under the provisions of this Act may be authorized by  
635 resolution at any regular or special meeting, and each such resolution shall take effect  
636 immediately and need not be published or posted, except as otherwise specifically provided in  
637 this Act.

638 The project when constructed and opened to traffic shall be maintained and kept in good  
639 condition and repair by the Authority. The project shall also be policed and operated by such  
640 force of police, toll-takers and other operating employees as the Authority may in its discretion  
641 employ. The Authority may enter into a contractual agreement with an existing governmental  
642 entity in Maryland or Virginia to provide these services. An Authority police officer shall have  
643 all the powers granted to a peace officer and a police officer of the State of Maryland. However,  
644 an Authority police officer may exercise these powers only on property owned, leased, operated

645 by, or under the control of the Authority, and may not exercise these powers on any other  
646 property unless:

- 647 1. Engaged in fresh pursuit of a suspected offender;
- 648 2. Specially requested or permitted to do so in a political subdivision by its chief  
649 executive officer or its chief police officer; or
- 650 3. Ordered to do so by the Governor of Virginia or Maryland, or the Mayor of the  
651 District of Columbia, as the circumstances may require.

652 All other police officers of the signatory parties and of each county, city, town or other  
653 political subdivision of the Commonwealth of Virginia through which any project, or portion  
654 thereof, extends shall have the same powers and jurisdiction within the limits of such projects as  
655 they have beyond such limits and shall have access to the project at any time for the purpose of  
656 exercising such powers and jurisdiction.

657 On or before August 31 in each year, the Authority shall make an annual report of its  
658 activities for the preceding fiscal year to the Governors of Maryland and Virginia and the Mayor  
659 of the District of Columbia. Each such report shall set forth a complete operating and financial  
660 statement covering its operations during the year. The Authority shall cause an audit of its books  
661 and accounts to be made at least once in each year by certified public accountants and the cost  
662 thereof may be treated as a part of the cost of construction or operation of the project. The  
663 records, books and accounts of the Authority shall be subject to examination and inspection by  
664 duly authorized representatives of the governing bodies of Maryland, the District of Columbia  
665 and Virginia, and by any bondholder or bondholders at any reasonable time, provided the  
666 business of the Authority is not unduly interrupted or interfered with thereby.

667 Any member, agent or employee of the Authority who contracts with the Authority or is  
668 interested, either directly or indirectly, in any contract with the Authority or in the sale of any  
669 property, either real or personal, to the Authority shall be guilty of a misdemeanor, and, upon  
670 conviction, may be punished by a fine of not more than \$1,000 or by imprisonment for not more  
671 than one year, or both.

**672** Any person who uses the project and fails or refuses to pay the toll provided therefor  
**673** shall be guilty of a misdemeanor, and, upon conviction, may be punished by a fine of not more  
**674** than \$100 or by imprisonment for not more than 30 days, or both.