

Wednesday, October 23, 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, Robert L. Calhoun, Thomas M. Moncure, Jr., E.M. Miller, Jr., Christopher R. Nolen,
3 Wesley G. Russell, Jr., Robert L. Tavenner

4 **MEMBERS ABSENT:** Ryan T. McDougale, J. Jasen Eige

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, Mindy Tanner

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 September 18, 2013, meeting of the Virginia Code Commission stand approved as printed and
11 distributed to the members of the Code Commission.

12 **Obsolete laws report (required by § 30-151 of the Code of Virginia):** Mindy Tanner
13 presented four sections in the Code of Virginia for amendment or repeal: §§ 23-8, 56-96, 56-
14 46.3, and 56-122. Ms. Tanner reviewed the rationale and background for each recommendation.
15 The Code Commission noted that § 8.9-302 had become § 8.9A-308 and questioned whether the
16 proposed amendment to § 55-96 should be to repeal the phrase "except as provided in subsection
17 (5) of § 8.9-302" or to amend it, and asked for additional research on this question.

18 On motion of Mr. Russell and seconded by Mr. Nolen, the Code Commission unanimously voted
19 to defer a decision on § 55-96 pending receipt of additional information at the November 20,
20 2013, meeting and to approve (i) the repeal of § 23-8; (ii) the replacement of references to
21 "Public Utility Holding Company Act of 1935" with "Public Utility Holding Company Act of
22 2005, which is set out at §§ 1261 et seq. of the Energy Policy Act of 2005" in § 56-46.3; and (iii)
23 the repeal of "and shall comply with the provisions of §§ 56-266 to 56-269" in § 56-122.

24 Delegate Habeeb agreed to carry the legislation for these changes.

25 **Recodification of Title 33.1: Highways, Bridges and Ferries:** Nicole Brenner informed the
26 Code Commission of two lawsuits before the Supreme Court of Virginia that could impact the
27 Code Commission's decision to move provisions regarding the Public-Private Transportation Act
28 (PPTA) from Title 56 to the new Title 33.2. One case involves several issues, including whether
29 certain tolls in the Tidewater area were taxes and the constitutionality of the PPTA. A decision in
30 this case is expected on October 31, 2013. The other case is an appeal from a State Corporation
31 Commission decision in which the commission ruled it lacked jurisdiction in the case based on
32 the definition of "public utility." Ms. Brenner explained that the terms of the PPTA are affected
33 by the definitions in Title 56. Ms. Brenner offered two options: (i) proceed with the current plan
34 to move the PPTA to Title 33.2 and add it to the list of substantive changes if the commission's
35 decision is affirmed or (ii) leave the PPTA in Title 56 with a "Reserved" chapter in Title 33.2 and
36 then add the PPTA during the 2015 Session of the General Assembly.

37 After discussion and receipt of comments from Mr. Mullen and Mr. Abraham, the Code
38 Commission requested staff to consult with the workgroup and other interested parties for a
39 mutually agreed-upon recommendation.

40 Ms. Brenner reviewed the organization plan and the proposed schedule noting that, after today,
41 all chapters will have been reviewed. The only outstanding issue, other than the PPTA, is the
42 reorganization of the article on the NVTC that is being reviewed by the workgroup. The final
43 report, executive summary, and special enactment clauses will be presented at the November
44 meeting.

45 Ms. Brenner and Mr. Wambold presented the following chapters, all of which the Code
46 Commission had previously reviewed, with the exception of Chapter 22 (Chesapeake Bay Bridge
47 and Tunnel District and Commission):

- 48 • Highway Systems (Chapter 3)
- 49 • Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over
50 Dams (Chapter 4)
- 51 • HOV Lanes and HOT Lanes (Chapter 5)
- 52 • Toll Facilities and Ferries (Chapter 6)
- 53 • Local Authority over Highways (Chapter 7)
- 54 • Offenses Concerning Highways (Chapter 8)
- 55 • Woodrow Wilson Bridge and Tunnel Compact (Chapter 13)
- 56 • Transportation Trust Fund (Article 5 of Chapter 15)
- 57 • Highway Maintenance and Operating Fund (Article 6 of Chapter 15)
- 58 • Chesapeake Bay Bridge and Tunnel District and Commission (Chapter 22)

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

60 Highway Systems. Ms. Brenner noted that the proposed new wording in § 33.1-41.1 (new
61 § 33.2-319; lines 441-443) is an attempt to tighten a reference to regulatory requirements. Mr.
62 Calhoun asked what the reference to "then-current design standards for subdivision streets"
63 means. Mr. Moncure suggested adding "regulatory" before "design" on line 442. Senator
64 Edwards suggested adding "as established in regulations of VDOT" after "subdivision streets" on
65 line 443. After discussion, the Code Commission requested that staff review the suggestions and
66 report back in November.

67 HOV Lanes and HOT Lanes. Ms. Brenner noted that the requirement that the Commissioner of
68 Highways report on the effects of the HOV program (§ 33.2-501; lines 91-92) was intended to be
69 a one-time report. The Code Commission concurred with staff's recommendation to delete this
70 reporting requirement.

71 Local Authority over Highways.

- 72 • § 33.1-325 (new § 33.2-701; lines 38-41) - At the prior request of the Code Commission
73 that staff determine if the reference to validating certain expenditures made by Giles
74 County is still needed, Ms. Brenner confirmed that Giles County and the Virginia
75 Association of Counties have no objection to the repeal of this language.
- 76 • § 33.1-242 (new § 33.2-708; lines 226-235) - In follow up to a prior request of the Code
77 Commission to determine if the term "viewers" is valid, Ms. Brenner confirmed that the
78 term is not outdated and that localities in Virginia still use viewers. Viewers are
79 appointed by a local governing body to review and report back to the locality on the
80 proposed location or relocation of a road.
- 81 • § 33.1-245 (new § 33.2-721; line 374) - The Code Commission approved the removal of
82 the exception of Henrico County with regard to the amount of compensation of clerks of
83 boards of governing bodies.

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84 Offenses Concerning Highways. In follow up to a Code Commission question concerning
85 whether the Division of Purchases and Supply still approves tire deflation devices used by law-
86 enforcement officers as provided in § 33.1-345 (new § 33.2-801; lines 28-31), Ms. Brenner
87 reported that Mr. Palmore had checked with the Secretary of Transportation and the Department
88 of General Services, and the language should be retained.

89 **Public comment; other business; adjournment:** The Chair opened the floor for public
90 comment. As there was no public comment and no further business to discuss, the meeting
91 adjourned at 11:15 a.m.

Commonwealth of Virginia		
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Administrative Law Advisory Committee		

Administrative Law Advisory Committee Annual Report

Regulation Adoption Date Work Group - Amendment

The Regulation Adoption Date work group, led by Elizabeth Andrews, addressed the question of what constitutes the adoption of a regulation for purposes of appealing a regulation "in the manner provided by the rules of the Supreme Court of Virginia". (Sec. 2.2-4026 of the Code of Virginia) Rule 2A:2 of the Rules of the Supreme Court requires the filing of a petition within 30 days after adoption of a regulation. Judges have disagreed over when this adoption takes place. Options have included the date of the board meeting at which a regulation was adopted, the date of filing with the Virginia Register of Regulations, or the date of publication in the Register.

The work group produced an amendment to the Virginia Administrative Process Act to address this issue by clarifying when the 30-day appeals period begins for regulations adopted by a board at a public meeting and those adopted by an agency head.

Hearing Officer Deskbook Revisions

Following significant revisions to the Hearing Officer Deskbook in 2009, ALAC was asked by the Office of the Executive Secretary of the Supreme Court to continue reviewing the manual on a regular basis. Eric Page reconvened the previous work group to carry out this review.

The work group conducted an online survey of all approved hearing officers in the Commonwealth of Virginia and received many helpful responses. The work group made technical changes, checked references, and added hyperlinks to external resources where applicable. The revised manual will be returned to the Office of the Executive Secretary for publication prior to the hearing officer training session in December.

In addition, Edward Macon of the Office of the Executive Secretary consulted the committee on revisions to the compensation section of the Hearing Officer System Rules of Administration. ALAC offered suggestions to help ensure fairness and consistency in agency pay scales for hearing officers.

Thomas A. Lisk, Chair
 Elizabeth Andrews
 Cindy Berndt
 Roger L. Chaffe

Jeffrey S. Gore
 Katya Herndon
 Edward A. Mullen
 Eric M. Page

Karen Perrine
 Michael Quinan
 Alexander F. Skirpan, Jr.
 Brooks Smith

Model State Administration Procedure Act - Continuation of Study

In 2011, ALAC formed two work groups to study the Model State Administrative Procedure Act (MSAPA). Mr. Page chaired the judicial work group, which examined the Adjudication and Judicial Review articles of the MSAPA.

Mr. Page reexamined the results of the previous study, identified several areas in which the work group had achieved consensus, and brought three amendments to the full committee for consideration. After discussion, the committee decided that these amendments could be beneficial, but required additional study. The committee will reconvene the work group next year.

ALAC Reappointments

The committee recommends that five members be reappointed following the expiration of their terms in December 2013:

Katya Herndon - Office of the Executive Secretary of the Supreme Court of Virginia
Thomas A. Lisk - Eckert Seamans Cherin & Mellott, LLC. / Current chair of ALAC
Eric M. Page - LeClairRyan
Alexander F. Skirpan, Jr. - Office of Hearing Examiners, State Corporation Commission
Brooks Smith - Troutman Sanders, LLP

Thomas A. Lisk, Chair
Elizabeth Andrews
Cindy Berndt
Roger L. Chaffe

Jeffrey S. Gore
Katya Herndon
Edward A. Mullen
Eric M. Page

Karen Perrine
Michael Quinan
Alexander F. Skirpan, Jr.
Brooks Smith

SUMMARY

Administrative Process Act; date of adoption or readoption of a regulation for purposes of appeal. Clarifies the date of adoption or readoption for purposes of an appeal under the Rules of Supreme Court of Virginia as (i) the date the agency takes final regulatory action if such action is taken at a public meeting or proceeding or (ii) the date of the filing of the regulation with the Registrar of Regulations if the final agency action was not taken at a public meeting or proceeding.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-4026 of the Code of Virginia, relating to the Administrative Process
2 Act; adoption of regulations.

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

4 **1. That § 2.2-4026 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-4026. Right, forms, venue; date of adoption or readoption for purposes of appeal.**

6 A. Any person affected by and claiming the unlawfulness of any regulation, or party aggrieved
7 by and claiming unlawfulness of a case decision and whether exempted from the procedural
8 requirements of Article 2 (§ 2.2-4006 et seq.) or 3 (§ 2.2-4018 et seq.) ~~of this chapter,~~ shall have a right
9 to the direct review thereof by an appropriate and timely court action against the agency or its officers or
10 agents in the manner provided by the ~~rules~~ Rules of ~~the~~ Supreme Court of Virginia. Actions may be
11 instituted in any court of competent jurisdiction as provided in § 2.2-4003, and the judgments of the
12 courts of original jurisdiction shall be subject to appeal to or review by higher courts as in other cases
13 unless otherwise provided by law. In addition, when any regulation or case decision is the subject of an
14 enforcement action in court, it shall also be reviewable by the court as a defense to the action, and the
15 judgment or decree therein shall be appealable as in other cases.

16 B. Notwithstanding any other provision of law or of any executive order issued under this
17 chapter, with respect to any regulation subject to judicial review under this chapter, the date of adoption
18 or readoption of the regulation pursuant to § 2.2-4015 for purposes of appeal under the Rules of
19 Supreme Court shall be as follows:

20 1. The date that the agency takes final regulatory action if such action is taken at a public
21 meeting or proceeding; or

22 2. The date of filing of the regulation with the Registrar of Regulations with respect to final
23 agency action not taken at a public meeting or proceeding. Notice of such filing shall be posted
24 concurrently on the Virginia Regulatory Town Hall.

25 #

Obsolete Code Report 11/13

Code Section

§ 55-96

Recommendation

Repeal phrase that has obsolete reference

§ 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.

TITLE 23.1 RECODIFICATION STAKEHOLDER GROUP

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November 20, 2013

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*Report of the
Virginia Code Commission
The Revision of Title 33.1 of the Code of Virginia*

**Richmond, Virginia
November 2013**

**To: The Honorable Robert F. McDonnell, Governor of Virginia
and
The General Assembly of Virginia**

In accordance with its authority granted pursuant to § 30-152 of the Code of Virginia, the Virginia Code Commission undertook the revision of Title 33.1 (Highways, Bridges and Ferries) in December 2011. Since the title has not been revised since 1970, the current revision presents an opportunity to (i) organize the laws in a more logical manner; (ii) remove obsolete and duplicative provisions; and (iii) improve the structure and clarity of the laws pertaining to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation. The current revision also presents an opportunity to include additional laws dealing with the closely related subject matters of transportation funding and local and regional transportation located in other parts of the Code. Thus, the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), the Washington Metropolitan Area Transit Regulation Compact of 1958 (§ 56-529 et seq.), and Washington Metropolitan Area Transit Authority Compact of 1966 (§ 56-529 et seq.), the Northern Virginia Transportation Authority (§ 15.2-4829 et seq.), the Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.), and the Richmond Metropolitan Authority (§ 15.2-7000 et seq.) are relocated and included in proposed Title 33.2.

The Commission was assisted by a Work Group composed of Matthew Strader, Assistant Secretary of Transportation; Richard Walton, Jr., Jo Anne Maxwell, and Holly Jones of the Department of Transportation; Kevin Page of the Department of Rail and Public Transportation; Jeffrey Allen and Nancy Auth of the Office of the Attorney General; Caroline Stalker of the Department of Motor Vehicles; Tracy Russillo and Danny Glick of the Department of State Police; Tom Biesiadny and Noelle Dominguez of Fairfax County Transportation; Beau Blevins of the Virginia Association of Counties; Joe Lerch of the Virginia Municipal League; Robert Chase of the Northern Virginia Transportation Alliance; Edward Mullen of Reed Smith; Christopher Lloyd of McGuireWoods Consulting; Philip Abraham of Vectre Corporation; and Marianne Radcliff of Kemper Consulting.

The contributions by the Work Group were invaluable, and the Commission wishes to express its sincere gratitude to the Work Group members for the significant time and effort they devoted to the revision of Title 33.1. These contributors represent a cross section of stakeholders and interested groups, and their expertise proved to be a key resource to the Commission and its staff.

The Virginia Code Commission recommends that the General Assembly enact legislation during the 2014 Session to implement the revisions proposed in this report.

Respectfully submitted,

Senator John S. Edwards, Chairman

Senator Ryan T. McDougale

Delegate Gregory D. Habeeb

Delegate James M. LeMunyon

The Honorable Charles S. Sharp

Robert L. Calhoun

Thomas M. Moncure, Jr.

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EXECUTIVE SUMMARY

INTRODUCTION

Title 33.1 (Highways, Bridges and Ferries) contains provisions of the Code of Virginia that address the function of transportation in the Commonwealth. Closely related to these provisions are the laws governing transportation development and local and regional transportation that can be found in certain chapters of Title 15.2 (Transportation District Act of 1964, Northern Virginia Transportation Authority, Charlottesville-Albemarle Regional Transit Authority, and Richmond Metropolitan Authority) Title 56 (Public-Private Transportation Act of 1995, Washington Metropolitan Area Transit Regulation Compact of 1958, and Washington Metropolitan Area Transit Authority Compact of 1966) and two funds in Title 58.1 (U.S. Route 58 Corridor Development Fund and Northern Virginia Transportation District Fund).

In August 1969, the Virginia Code Commission submitted its report on the proposed revision of Title 33, which was published as House Document 3 of the 1970 Session. The Code Commission's draft for the new Title 33.1 was enacted as Chapter 322 of the Acts of Assembly of 1970. When Title 33.1 was enacted in 1970, it contained eight chapters. In the ensuing 43 Regular Sessions of the General Assembly, 12 chapters have been added and seven repealed, resulting in the existing title comprising 13 chapters. None of the five chapters, two sections, and two compacts that are relocated from Titles 15.2, 56, and 58.1 to the current revision was in existence when the Code of 1950 was adopted. In the intervening years, sections have been added intermittently or at the end of a chapter and chapters often have been added at the end of Title 33.1, which has compromised any previous organizational scheme. It has become appropriate to (i) organize the laws in a more logical manner, (ii) remove obsolete and duplicative provisions, and (iii) improve the structure and clarity of statutes pertaining to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation.

ORGANIZATION OF TITLE 33.2

The title is renamed from Highways, Bridges and Ferries to Highways and Other Surface Transportation Systems to more accurately describe the title's scope. Proposed Title 33.2 consists of 32 chapters divided into four subtitles: Subtitle I (General Provisions and Transportation Entities); Subtitle II (Modes of Transportation: Highways, Bridges, Ferries, Rail, and Public Transportation); Subtitle III (Transportation Funding and Development); and Subtitle IV (Local and Regional Transportation).

Subtitle I contains proposed Chapter 1 (Definitions and General Provisions), which consists of titlewide definitions and provisions that are broadly applicable to transportation, and proposed Chapter 2 (Transportation Entities), which consists of provisions relating to the powers, duties, and obligations of the Commonwealth Transportation Board, Commissioner of Highways, Department of Transportation, and Department of Rail and Public Transportation.

Subtitle II contains proposed Chapters 3 through 14, which pertain to maintenance, control, operation, regulation, and construction of modes of transportation such as highways, bridges, ferries, toll facilities, and rail and public transportation in the Commonwealth. Proposed Chapter 3 (Highway Systems) includes provisions from existing Chapter 1 that govern the Interstate System, primary state highway system, secondary state highway system, and urban

highway system, as well as allocations of highway funds. Proposed Chapter 4 (Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams) brings together a few existing articles relating to specially designated highways. Proposed Chapter 5 (HOV Lanes and HOT Lanes) brings together provisions from existing Chapter 1 relating to high-occupancy vehicle lanes and high-occupancy traffic lanes. Proposed Chapter 6 (Toll Facilities and Ferries) brings together sections from existing Chapter 1 that directly relate to toll facilities and ferries. Proposed Chapter 7 (Local Authority over Highways) has been a chapter since the 1970 title revision and remains a chapter in the proposed revision. Proposed Chapter 8 (Offenses Concerning Highways) brings together sections related to littering and other offenses committed on highways. Proposed Chapter 9 (Abandonment and Discontinuance of Highways and Roads) brings together and clarifies previously convoluted sections in Articles 10 through 13 in existing Chapter 1 relating to the abandonment and discontinuance of highways and roads. Proposed Chapter 10 (Eminent Domain) retains Article 7 of existing Chapter 1 relating to eminent domain, damages, and acquisition of land. Proposed Chapter 11 (Highway Construction Contracts and Suits; Highway Contractors' Association) includes two articles that bring together sections throughout existing Title 33.1. Proposed Chapter 12 (Outdoor Advertising in Sight of Public Highways) retains the provisions of existing Chapter 7. Proposed Chapters 13 and 14 (Woodrow Wilson Bridge and Tunnel Compact; Virginia-North Carolina Interstate High-Speed Rail Compact) assign a chapter designation to these two compacts, both of which will be set out in the Compacts volume.

Subtitle III contains proposed Chapters 15 through 18 and collects various sections relating to transportation funding and development in the Commonwealth. Proposed Chapter 15 (Transportation Funding) brings together various funds and general sections relating to transportation funding such as the Virginia Transportation Infrastructure Bank, the Transportation Partnership Opportunity Fund, Funds for Access Roads, the Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes Act of 2011, the Transportation Trust Fund, and establishes the Highway Maintenance and Operating Fund which, although referenced, was previously not created within the Code of Virginia. Proposed Chapter 16 (Rail Funds) includes provisions relating to funding for the construction of industrial access railroad tracks, the Rail Enhancement Fund, the Shortline Railway Preservation and Development Fund, and the Intercity Passenger Rail Operating and Capital Fund. Proposed Chapter 17 (Transportation Development and Revenue Bond Act) retains existing Article 5 (§ 33.1-267 et seq.) of Chapter 3, the State Revenue Bond Act, with a more accurate name. Proposed Chapter 19 (Public-Private Transportation Act of 1995) retains and relocates Chapter 22 (§ 56-556 et seq.) of Title 56 (Public Service Companies) to this more appropriate subtitle on transportation funding in proposed Title 33.2.

Subtitle IV contains proposed Chapters 19 through 32 all of which relate to local and regional transportation. Proposed Chapter 19 (Transportation District Act of 1964) retains and relocates Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2 to this more appropriate subtitle on local and regional transportation in proposed Title 33.2. Proposed Chapter 20 (Local Transportation Districts) retains existing Chapter 13. Proposed Chapter 21 (Transportation Districts within Certain Counties) retains existing Chapter 15. Proposed Chapter 22 (Chesapeake Bay Bridge and Tunnel District and Commission) is a new chapter that includes provisions from separate acts of assembly that are currently incorporated by reference in § 33.1-253. Proposed Chapter 23 (U.S. Route 58 Corridor Development Fund and Program) brings together two sections, one in existing Title 33.1 that delineates the Program and another from Title 58.1 that provides for the Fund.

Proposed Chapter 24 (Northern Virginia Transportation District Fund and Program) brings together two sections, one in existing Title 33.1 that delineates the Program and another from Title 58.1 that provides for the Fund. Proposed Chapter 25 (Northern Virginia Transportation Authority) relocates Chapter 48.2 (§ 15.2-4829 et seq.) of Title 15.2. Proposed Chapter 26 (Hampton Roads Transportation Fund) creates a new chapter for a regional fund. Proposed Chapter 27 (Transportation District within the City of Charlottesville and the County of Albemarle) retains existing Chapter 16. Proposed Chapter 28 (Charlottesville-Albemarle Regional Transit Authority) relocates Chapter 71 (§ 15.2-7100 et seq.) of Title 15.2. Proposed Chapter 29 (Richmond Metropolitan Authority) retains existing Chapter 70 (§ 15.2-7000 et seq.) of Title 15.2. Proposed Chapter 30 (Washington Metropolitan Area Transit Regulation Compact of 1958) and Proposed Chapter 31 (Washington Metropolitan Area Transit Authority Compact of 1966) separate two compacts previously combined and designated as Chapter 18 (§ 56-529 et seq.) of Title 56. Proposed Chapter 32 (Metropolitan Planning Organizations) brings together those sections found in Article 15 (Miscellaneous Provisions) of existing Chapter 1 that relate to metropolitan planning organizations.

Repealed Chapters and Articles

During the revision process, the Code Commission became aware of a number of existing articles and an existing chapter that are either unnecessary or obsolete and have been deleted; these are recommended for repeal and thus not included in the proposed title. Chapter drafting notes in the body of this report describe the reasons for the repeal of the following four articles and one chapter:

Chapter 1, Article 9, Highway Right-of-Way Fund; Acquisition of Properties for Future Use (§ 33.1-137 et seq.)

Chapter 1, Article 16, Virginia Alternative Fuels Revolving Fund (§ 33.1-223.3 et seq.)

Chapter 4, Article 2, Assumption by County with Executive Form of Government (§ 33.1-326 et seq.)

Chapter 4, Article 3, Redemption of District Road Bonds (§ 33.1-332 et seq.)

Chapter 14, Virginia Coalfield Coalition Authority (§ 33.1-426 et seq.)

Other Affected Titles

As noted previously, several chapters are relocated to proposed Title 33.2: Transportation District Act of 1964 (§ 15.2-4500 et seq.), Richmond Metropolitan Authority (§ 15.2-7000 et seq.), Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.), Northern Virginia Transportation Authority (§ 15.2-4829 et seq.), and Public-Private Transportation Act of 1995 (§ 56-556 et seq.). In addition, two funding sections, § 58.1-815 (U.S. Route 58 Corridor Development Fund) and § 58.1-815.1 (Northern Virginia Transportation District Fund), are relocated from Title 58.1 so that they are found with their corresponding programs. Finally, two compacts are relocated from Title 56: Washington Metropolitan Area Transit Regulation Compact of 1958 and Washington Metropolitan Area Transit Authority Compact of 1966, both in Chapter 18 (§ 56-529 et seq.) of Title 56.

The relocation of sections, articles, and chapters from other titles of the Code of Virginia to proposed Title 33.2 is not intended to have any substantive effect on their interpretation.

An outline of the organization of proposed Title 33.2 is included as Appendix A.

Changes Made Throughout Title 33.2

An explanation of the significant changes made in each chapter is provided in a drafting note that precedes each chapter. Each section is followed by a drafting note describing any changes made in the section. If a section drafting note states "no change," the section contains no changes other than renumbering the section and any cross-references contained in the section. If a section drafting note states "technical changes," the section contains nonsubstantive changes to the text. These technical changes may range from the insertion of clarifying punctuation to a thorough modernization of archaic writing style. When a section contains structural or substantive changes, such as the deletion or addition of language, the section drafting note describes the reason for the proposed change.

Many of the technical changes arose from the Code Commission's determination that terminology should be clear, consistent, and modern. The following lists provide a representative sample of the most significant and most widely implemented technical changes made in the proposed title.

The following changes are made in order to maintain consistency with changes made in previous title revisions, to update antiquated language, to provide clarity, and to bring Title 33.2 into accordance with Title 1:

- § 1-218. Includes. "Includes" means includes, but not limited to.
- § 1-221. Locality. "Locality" means a county, city, or town as the context may require.
- § 1-224. Municipality; incorporated communities; municipal corporation. "Municipality," "incorporated communities," "municipal corporation," and words or terms of similar import mean cities and towns.
- § 1-225. Nonlegislative citizen member. "Nonlegislative citizen member" means any natural person who is not a member of the General Assembly of Virginia.

Any reference to a "citizen member" or "nonlegislative member" is changed to this full name.

- § 1-227. Number. A word used in the singular includes the plural and a word used in the plural includes the singular.
- § 1-230. Person. "Person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.
- § 1-244. Short title citations. Whenever a subtitle, chapter, or article does not have a section or provision establishing or authorizing a short title citation for such subtitle, chapter or article, such subtitle, chapter or article may be cited by its caption. The caption is that word or group of words appearing directly below the numerical designation given the subtitle, chapter or article. Captions are intended as mere catchwords to indicate the

contents of the subtitles, chapters, and articles and do not constitute part of the act of the General Assembly.

- § 1-254. Town. "Town" means any existing town or an incorporated community within one or more counties which became a town before noon, July 1, 1971, as provided by law or which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law.

The following changes are made to remove and update antiquated terminology or clarify terms with general application, in accordance with Code Commission policies:

- "From time to time": This usually unnecessary reference is removed unless removal would mean the action could only be taken once.
- "As the case may be": This reference is removed when used with an option of two or more entities if it is clear when each option should be taken.
- Unclear references to "herein" are replaced with appropriate references to a section, article, chapter, or title.
- Phrases such as "heretofore or hereafter" are removed because they mean "before now or after now."
- "Percentum" and "per annum" are replaced with "percent" and "per year," respectively.
- When grammatically feasible, "will" or "must" is changed to "shall."
- The outdated reference found in conjunction with a court to a "judge thereof in vacation" is deleted.
- When grammatically feasible, "shall be guilty" is changed to "is guilty."
- "This Commonwealth" is replaced with "the Commonwealth."
- "Virginia" is replaced with "Commonwealth."
- "Adopt regulations" is used rather than "promulgate regulations." The term "adopt regulations" means the process by which regulations are put into effect and includes the promulgation, revision or amendment, and formal acceptance of a regulation by an agency that has exercised its regulation-making authority in accordance with law. In its revision of Titles 2.1, 9, 63.1, 37.1, 3.1, 6.1, etc., the Code Commission approved the use of the more widely used "adopt" instead of "promulgate."
- The term "rule" is deleted when used in conjunction with "regulation" because it has the same meaning.
- Definitions are moved to the beginning of the section, article, chapter, etc., to provide the reader better clarity and context.
- "And/or": This grammatical shortcut, which often leads to confusion or ambiguity, is amended throughout to reflect the appropriate meaning: "and" in the sense of all, inclusive; "or" in the sense of "either/any or both/all." In certain contractual situations, specifically regarding the PPTA, lists are amended to include "or both" or "or any combination thereof" so as not to interfere with existing agreements.

- "Federal, state, or local" and similar series list entities in order from largest to smallest.

The following changes are made throughout proposed Title 33.2 and apply more specifically to the subject matter found in this title:

Unless used in a catchline or in a specific section containing references to more than one board, department, etc.:

- "Board" means the Commonwealth Transportation Board.
- "Commissioner of Highways" is the proper term.
- "Department" means the Department of Transportation.
- "Secretary" means the Secretary of Transportation.

Conventions used throughout proposed Title 33.2:

- "Governing body of a locality" or "local governing body" is preferred over redundant "local governing body of a locality" or "local governing body of a county."
- If a "road" is in the primary or secondary state highway system, it is called a "highway." If "road" refers to a private road, the term "private road" is used.
- The full name of "highway construction district" is used in all references.
- "Jurisdiction" means authority over something and is not used to mean a locality.
- Federal-aid systems comprise the Interstate System and the National Highway System. (See 23 U.S.C. § 103)
- "Interstate System" is capitalized and is the Dwight D. Eisenhower National System of Interstate and Defense Highways. It is also those roads declared part of the Interstate System by the Commonwealth Transportation Board and is as defined in 23 USC § 103(c).
- References to specific interstate highways do not include the word "route." For example, "Interstate 66" is preferred over "Interstate Route 66."
- "Primary state highway system" is the preferred name for what has previously been referred to as the State Highway System, the primary system of state highways, and the state highway system of primary highways. Singular highways in this system may be referred to as a "primary highway."
- "Secondary state highway system" is the preferred name for this highway system. Singular highways in this system may be referred to as a "secondary highway."
- "Systems of state highways" (as defined in § 1-251) means all systems of highways within the Commonwealth over which the Commonwealth Transportation Board exercises jurisdiction and control.
- "Urban highway system" is a defined term and does not include the word "state" because this system of urban streets is maintained by cities and towns with the help of state funds.

Substantive Changes Proposed in Title 33.2

When the Code Commission has approved a substantive change to a provision of existing law, it is noted in the drafting note for the affected section. These substantive changes include:

- Existing § 33.1-3 contains an unclear allowance that the Commissioner of Highways may be a nonresident of Virginia at the time of his appointment. This language is removed because it does not require him to become a resident after his appointment and the Commissioner of Highways would be required to meet any qualifications presented in his job description. Existing § 33.1-3 also states that the Commissioner's compensation is fixed by the Commonwealth Transportation Board and approved by the Governor. The Commissioner's compensation is found in the appropriation act and so this language is changed.
- Existing § 15.2-4502 contains the following definition: "metropolitan area" means a standard metropolitan statistical area as defined in the pamphlet Standard Metropolitan Statistical Areas, issued by Executive Office of the President, Bureau of the Budget, 1964, or any contiguous counties or cities within this Commonwealth which together constitute an urban area. Because the term "standard metropolitan statistical area," used in the definition of "metropolitan area," has been discontinued by the Office of Management and Budget and the U.S. Census Bureau it is replaced with "metropolitan statistical area" per current usage by the U.S. Census Bureau and the Office of Management and Budget.

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**PROPOSED ENACTMENT CLAUSES TO
TITLE 33.1 RECODIFICATION BILL**

2. That whenever any of the conditions, requirements, provisions, or contents of any section or chapter of Chapters 48.2 (§ 15.2-4829 et seq.), 70 (§ 15.2-7000 et seq.), and 71 (§ 15.2-7022 et seq.) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§ 56-556 et seq.) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia or any other title of the Code of Virginia as such titles existed prior to October 1, 2014, are transferred in the same or modified form to a new section or chapter of Title 33.2 or any other title of the Code of Virginia and whenever any such former section or chapter is given a new number in Title 33.2 or any other title of the Code of Virginia, all references to any such former section or chapter of Chapters 48.2 (§ 15.2-4829 et seq.), 70 (§ 15.2-7000 et seq.), and 71 (§ 15.2-7022 et seq.) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§ 56-556 et seq.) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia or any other title of the Code of Virginia shall be construed to apply to the new or renumbered section or chapter containing such conditions, requirements, provisions, contents, or portions thereof.

3. That the regulations of any department or agency affected by the revision of Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia or such other titles in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.

4. That the provisions of § 30-152 of the Code of Virginia shall apply to the revision of Title 33.1 of the Code of Virginia so as to give effect to other laws enacted by the 2014 Session of the General Assembly, notwithstanding the delay in the effective date of this act.

5. That the repeal of Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia and Chapter 693 of the Acts of Assembly of 1954, Chapters 462 and 714 of the Acts of Assembly of 1956, Chapter 24 of the Acts of Assembly of 1959, Extra Session, Chapters 228 and 605 of the Acts of Assembly of 1962, Chapter 348 of the Acts of Assembly of 1964, Chapter 203 of the Acts of Assembly of 1990, Chapter 548 of the Acts of Assembly of 1998, Chapters 238 and 705 of the Acts of Assembly of 2000, and Chapters 270 and 297 of the Acts of Assembly of 2005 (expired January 1, 2006), effective as of October 1, 2014, shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, neither the repeal of Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1

through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia and Chapter 693 of the Acts of Assembly of 1954, Chapters 462 and 714 of the Acts of Assembly of 1956, Chapter 24 of the Acts of Assembly of 1959, Extra Session, Chapters 228 and 605 of the Acts of Assembly of 1962, Chapter 348 of the Acts of Assembly of 1964, Chapter 203 of the Acts of Assembly of 1990, Chapter 548 of the Acts of Assembly of 1998, Chapters 238 and 705 of the Acts of Assembly of 2000, and Chapters 270 and 297 of the Acts of Assembly of 2005 (expired January 1, 2006) nor the enactment of Title 33.2 shall apply to offenses committed prior to October 1, 2014, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this enactment, an offense was committed prior to October 1, 2014, if any of the essential elements of the offense occurred prior thereto.

6. That any notice given, recognizance taken, or process or writ issued before October 1, 2014, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if Title 33.2 had been effective before the same was given, taken, or issued.

7. That if any clause, sentence, paragraph, subdivision, subsection, or section of Title 33.2 shall be adjudged in any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, subsection, or section thereof directly involved in the controversy in which the judgment shall have been rendered, and to this end the provisions of Title 33.2 are declared severable.

8. That references to the State Highway and Transportation Board, the State Highway Commission, or the State Highway and Transportation Commission shall be continued as references to the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used referring to the State Highway and Transportation Board, the State Highway Commission, or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

9. That the repeal of Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia and Chapter 693 of the Acts of Assembly of 1954, Chapters 462 and 714 of the Acts of Assembly of 1956, Chapter 24 of the Acts of Assembly of 1959, Extra Session, Chapters 228 and 605 of the Acts of Assembly of 1962, Chapter 348 of the Acts of Assembly of 1964, Chapter 203 of the Acts of Assembly of 1990, Chapter 548 of the Acts of Assembly of 1998, Chapters 238 and 705 of the Acts of Assembly of 2000, and Chapters 270 and 297 of the Acts of Assembly of 2005 (expired January 1, 2006), effective as of October 1, 2014, shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or contract, that existed prior to such repeal.

10. That the repeal of Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia and Chapter 693 of the Acts of

Assembly of 1954, Chapters 462 and 714 of the Acts of Assembly of 1956, Chapter 24 of the Acts of Assembly of 1959, Extra Session, Chapters 228 and 605 of the Acts of Assembly of 1962, Chapter 348 of the Acts of Assembly of 1964, Chapter 203 of the Acts of Assembly of 1990, Chapter 548 of the Acts of Assembly of 1998, Chapters 238 and 705 of the Acts of Assembly of 2000, and Chapters 270 and 297 of the Acts of Assembly of 2005 (expired January 1, 2006), effective as of October 1, 2014, shall not affect the validity of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.

11. That Chapters 48.2 (§§ 15.2-4829 through 15.2-4840), 70 (§§ 15.2-7000 through 15.2-7021), and 71 (§§ 15.2-7022 through 15.2-7035) of Title 15.2, Title 33.1 (§§ 33.1-1 through 33.1-465), Chapters 18 (§§ 56-529 and 56-530) and 22 (§§ 56-556 through 56-575) of Title 56, and §§ 58.1-815 and 58.1-815.1 of the Code of Virginia and Chapter 693 of the Acts of Assembly of 1954, Chapters 462 and 714 of the Acts of Assembly of 1956, Chapter 24 of the Acts of Assembly of 1959, Extra Session, Chapters 228 and 605 of the Acts of Assembly of 1962, Chapter 348 of the Acts of Assembly of 1964, Chapter 203 of the Acts of Assembly of 1990, Chapter 548 of the Acts of Assembly of 1998, Chapters 238 and 705 of the Acts of Assembly of 2000, and Chapters 270 and 297 of the Acts of Assembly of 2005 (expired January 1, 2006) are repealed.

12. That the provisions of this act shall become effective on October 1, 2014.

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Regulations Language

Subtitle I. Chapter 1. Article 3.

§ ~~33.1-198~~ 33.2-241. Connections over shoulders of highways for intersecting commercial establishment entrances; penalty.

The Commissioner of Highways shall permit, ~~at places~~ suitable connections from where commercial establishment entrances are desired to intersect improved highways, ~~suitable connections from such points of intersection and~~ over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof that comply with the ~~Commissioner of Highways'~~ access management standards of the Commissioner of Highways for the location, spacing, and design of entrances, taking into account the operating characteristics and federal functional classification of the highway, ~~so as~~ to provide ~~for~~ the users of such entrances safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways while minimizing the impact of such ingress and egress on the operation of such highways, provided, ~~however,~~ that any person desiring such an entrance shall:

1. Be required first to obtain a permit therefor from the Commissioner of Highways;
2. Provide the entrance at his expense;
3. If required by the Commissioner of Highways, provide for the joint use of the desired entrance with adjacent property owners or provide evidence of such efforts; and
4. Construct the entrance or have the entrance constructed, including such safety structures as are required by the Commissioner of Highways, pursuant to the Department of Transportation's design standards and ~~"Land Use Permit Manual," the latter of which is filed as part of the Virginia Administrative Code~~ applicable Department regulations concerning access management and applicable Board regulations regarding land use permits.

All commercial entrances whether or not constructed under this section shall be maintained by the owner of the premises at all times in a manner satisfactory to the Commissioner of Highways.

28 Any person violating the provisions of this section ~~shall be is~~ guilty of a misdemeanor,
29 ~~and, upon conviction, shall be fined~~ punishable by a fine of not less than \$5 nor more than \$100
30 for each offense. Following a conviction and 15 days for correction, each day during which the
31 violation continues shall constitute a separate and distinct offense and be punishable as such.
32 Such person shall be civilly liable to the Commonwealth for actual damage sustained by the
33 Commonwealth by reason of his wrongful act.

34

35 Subtitle II. Chapter 3. Article 2.

36 § ~~33.1-41.1~~ 33.2-319. Payments to cities and certain towns for maintenance of certain
37 highways.

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

49 No payments shall be made to any such city or town unless the portion of the highway
50 for which such payment is made either ~~(a) (i)~~ has (i) (a) an unrestricted right-of-way at least 50
51 feet wide and ~~(ii) (b)~~ a hard-surface width of at least 30 feet; ~~or (b) (ii)~~ has (i) (a) an unrestricted
52 right-of-way at least 80 feet wide, ~~(ii) (b)~~ a hard-surface width of at least 24 feet, and (iii) (c)
53 approved engineering plans for the ultimate construction of an additional hard-surface width of
54 at least 24 feet within the same right-of-way; ~~or (e) (i) (iii) (a)~~ is a cul-de-sac, (ii) (b) has an

55 unrestricted right-of-way at least 40 feet wide, and ~~(iii) (c)~~ has a turnaround that meets
56 applicable standards set by the Department ~~of Transportation~~; ~~or (d) (iv)~~ either ~~(i) (a)~~ has been
57 paved and has constituted part of the primary or secondary state highway systems ~~system of~~
58 state highways prior to annexation or incorporation or ~~(ii) (b)~~ has constituted part of the
59 secondary state highway ~~system of state highways~~ prior to annexation or incorporation and is
60 paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with
61 the further exception of streets or portions thereof ~~which that~~ have previously been maintained
62 under the provisions of § ~~33.1-79 33.2-XXX~~ or § ~~33.1-82 33.2-XXX~~; ~~or (e) (v)~~ was eligible for
63 and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985;
64 ~~or (f) (vi)~~ is a street established prior to July 1, 1950, ~~which that~~ has an unrestricted right-of-way
65 width of not less than 30 feet and a hard-surface width of not less than 16 feet; ~~or (g) (vii)~~ is a
66 street functionally classified as a local street ~~and that was~~ constructed on or after January 1,
67 1996, ~~which and that~~ at the time of approval by the city or town met the criteria for pavement
68 width and right-of-way of the then-current ~~edition of the subdivision street requirements manual~~
69 ~~for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.) design~~
70 standards for subdivision streets as set forth in regulations adopted by the Board; ~~(h) (viii)~~ is a
71 street previously eligible to receive street payments that is located in the City of Norfolk ~~and or~~
72 the City of Richmond and is closed to public travel, pursuant to legislation enacted by the
73 governing body of the ~~city locality~~ in which it is located, for public safety reasons, within the
74 boundaries of a publicly funded housing development owned and operated by the local housing
75 authority; or ~~(i) (ix)~~ is a local street, otherwise eligible, containing one or more physical
76 protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

77 However, the Commissioner of Highways may waive the requirements as to hard-
78 surface pavement or right-of-way width for highways where the width modification is at the
79 request of the ~~local~~ governing body of the locality and is to protect the quality of the affected
80 ~~local government's locality's~~ drinking water supply or, for highways constructed on or after July
81 1, 1994, to accommodate some other special circumstance where such action would not

82 | compromise the health, safety, or welfare of the public. The modification is subject to such
83 | conditions as the Commissioner of Highways may prescribe.

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

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

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

98 | The chief administrative officer of the city or town receiving this fund shall make annual
99 | categorical reports of expenditures to the Department, in such form as the Board shall prescribe,
100 | accounting for all expenditures, certifying that none of the money received has been expended
101 | for other than maintenance, construction, or reconstruction of the streets, and reporting on their
102 | performance as specified in subdivision ~~B-3 X~~ of § ~~33.1-23.02 33.2-XXX~~. Such reports shall be
103 | included in the scope of the annual audit of each municipality conducted by independent
104 | certified public accountants.

105 |

106 | **Subtitle II. Chapter 3. Article 3.**

107 | § ~~33.1-69.001 33.2-327~~. Design standards for ~~state~~ secondary state highway system
108 | components.

109 For urban and urban development areas in ~~jurisdictions~~ localities using the urban county
110 executive form of government, the ~~Virginia Department of Transportation~~ shall work in
111 conjunction with the ~~jurisdiction~~ locality and the Department of Rail and Public Transportation
112 to review new design standards for ~~state~~ secondary state highway system components that the
113 ~~jurisdiction~~ locality proposes. Such standards shall (i) be based on the American Association of
114 State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of
115 Highways and Streets and other publications applicable to urban areas; (ii) set forth a design
116 methodology that should be used in the affected urban and urban development areas; (iii) allow
117 for the efficient movement of transit and other vehicles through these areas; (iv) accommodate
118 safe pedestrian and bicyclist movement; (v) accommodate high density urban development; (vi)
119 encourage user-friendly access to transit; (vii) include stormwater management guidelines,
120 consistent with state and local laws and regulations; and (viii) respect the character of urban
121 areas. These design standards and methodologies are intended to facilitate approval of roadway
122 and transportation system improvement plans in urban areas that comply with the standards.
123 These design standards ~~should~~ shall not contradict or be in conflict with the principles outlined
124 in the ~~Department's Secondary Street Acceptance Requirements~~ applicable Board regulations
125 concerning terms and conditions under which subdivision streets may be accepted into the
126 secondary state highway system.

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

130 § ~~33.1-70.3~~ 33.2-334. Requirements for taking new streets into ~~state~~ secondary state
131 highway system.

132 A. The ~~local~~ governing body of any county that has not withdrawn from the ~~state~~
133 secondary state highway system or any town within which the ~~Virginia Department of~~
134 ~~Transportation~~ maintains the streets; may, by resolution, request the ~~Commonwealth~~
135 ~~Transportation~~ Board to take any new street or highway into the secondary state highway

136 system ~~of state highways~~ for maintenance if such street or highway has been developed and
137 constructed in accordance with the Board's secondary street acceptance requirements. ~~Only~~
138 ~~those streets constructed in compliance with the secondary street acceptance requirements shall~~
139 ~~be taken into the state secondary highway system for maintenance.~~ The Board shall ~~promulgate~~
140 adopt regulations establishing such secondary street acceptance requirements. ~~The secondary~~
141 ~~street acceptance requirements established pursuant to this section, which~~ shall include such
142 provisions as the Board deems necessary or appropriate to achieve the safe and efficient
143 operation of the Commonwealth's transportation network.

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

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

154 D. ~~Furthermore, nothing~~ Nothing in this section or in any regulation, policy, or practice
155 adopted pursuant to this section shall prevent the acceptance of any street or segment of a street
156 within a network addition that meets one or more of the public service requirements addressed
157 in the regulations, provided that the network addition satisfies all other requirements adopted
158 pursuant to this section. In cases where a majority of the lots along the street or street segment
159 remain undeveloped and construction traffic is expected to utilize that street or street segment
160 after acceptance, the bonding requirement for such street or street segment may be required by
161 the Department to be extended for up to one year beyond that required in the secondary street
162 acceptance requirements.

163 § ~~33.1-82~~ 33.2-340. Maintenance, etc., by Commissioner of Highways when no request
164 for allocation.

165 If no request is made to the ~~Commonwealth Transportation Board of Virginia~~ by the
166 governing body of any ~~such~~ town as provided in § ~~33.1-79~~ 33.2-XXX, the Commissioner of
167 Highways, subject to the approval of the ~~Commonwealth Transportation~~ Board, may maintain,
168 improve, construct, and reconstruct all streets in such ~~incorporated~~ town that (i) have an
169 unrestricted right-of-way width of not less than ~~thirty~~ 30 feet and a ~~hard surface~~ hard surface
170 width of not less than ~~twelve~~ 12 feet;_; (ii) were established after July 1, 1950, by such town and
171 have a right-of-way width of not less than ~~fifty~~ 50 feet and a ~~hard surface~~ hard surface width of
172 not less than ~~twenty~~ 20 feet;_; or (iii) are functionally classified as local streets and were
173 constructed on or after January 1, 1996, and₂ at the time of approval by the town, met the criteria
174 for pavement width and right-of-way of the then-current edition ~~of the subdivision street~~
175 ~~requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-~~
176 ~~10 et seq.)~~ design standards for subdivision streets as set forth in regulations adopted by the
177 Board.

Public-Private Transportation Act of 1995 (§ 56-556 et seq.)

Report from the Work Group meeting:

- Move forward with the proposal to move the PPTA into proposed Title 33.2.
- Add a Note in the executive summary:
 - The relocation of sections, articles, and chapters from other titles of the Code of Virginia to proposed Title 33.2 is not intended to have any substantive effect on their interpretation.

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CHAPTER ~~45~~ 19.

TRANSPORTATION DISTRICT ACT OF 1964.

Drafting note: Existing Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2, Counties, Cities and Towns, is relocated as Chapter 19 of proposed Title 33.2 because of its relevance to transportation.

Article 1.

General Provisions.

Drafting note: Existing Article 1 of Chapter 45 of Title 15.2 is retained and relocated as Article 1 of Chapter 19 of proposed Title 33.2.

~~§ 15.2-4500. Short title.~~

~~This chapter may be cited as the "Transportation District Act of 1964."~~

Drafting note: This section is recommended for repeal because of the Code-wide application of § 1-244, which states that the caption of a subtitle, chapter, or article serves as a short title caption.

~~§ 15.2-4501~~ 33.2-1900. Declaration of policy.

The development of transportation systems, composed of transit facilities, public highways, and other modes of transport, is necessary for the orderly growth and development of the urban areas of the Commonwealth; for the safety, comfort, and convenience of its citizens; and for the economical utilization of public funds. The provision of the necessary facilities and services cannot be achieved by the unilateral action of the counties and cities, and the attainment thereof requires planning and action on a regional basis, conducted cooperatively and on a continuing basis, between representatives of the affected political subdivisions and the Commonwealth Transportation Board. In those urban areas of the Commonwealth ~~which that~~ together form a single metropolitan area, solutions must be jointly sought with the affected political subdivisions and highway departments. Such joint action should be conducted in a manner ~~which that~~ preserves, to the extent the necessity for joint action permits, local autonomy over patterns of growth and development of each participating political ~~jurisdiction~~ subdivision

28 or locality. The requisite joint action may best be achieved through the device of a
29 transportation district, having the powers, functions, and duties ~~hereinafter~~ set forth in this
30 chapter. In the provision of improved or expanded transit facilities, it is the policy of the
31 Commonwealth to make use of private enterprise to the extent reasonably practicable.

32 **Drafting note: Technical changes are made to conform language with the proposed**
33 **titlewide definitions section, § 33.2-100.**

34 § ~~15.2-4502~~ 33.2-1901. Definitions.

35 As used in this chapter, ~~the following words and terms shall have the following~~
36 ~~meanings~~, unless the context ~~clearly~~ requires a different meaning:

37 ~~(a) "District" means a transportation district authorized to be created by this chapter;~~

38 ~~(b) "Commission" or "district commission" means the governing body of a district;~~

39 ~~(c) "Agency" or "such agency" means an agency authorized by, or arising from action of,~~
40 the General Assembly ~~of Virginia~~ to plan for or provide transportation facilities and service for
41 a metropolitan area ~~partly~~ located wholly or in part in ~~Virginia; the Commonwealth.~~

42 "Commission" or "district commission" means the governing body of a district.

43 ~~(d) "Component governments" means the counties and cities comprising composing a~~
44 transportation district and the various departments, bureaus, and divisions of such counties and
45 cities;

46 "District" means a transportation district authorized to be created by this chapter.

47 ~~(e) "Governing bodies" means the boards of supervisors of counties and councils of~~
48 cities ~~comprising composing~~ a transportation district;

49 ~~(f) "Metropolitan area" means a ~~standard~~ metropolitan statistical area as defined ~~in the~~~~
50 ~~pamphlet Standard Metropolitan Statistical Areas, issued by Executive Office of the President,~~
51 ~~Bureau of the Budget, 1964, by the U.S. Census Bureau and the Office of Management and~~
52 Budget or any contiguous counties or cities within ~~this the~~ Commonwealth ~~which that~~ together
53 constitute an urban area;

54 ~~(g)~~ "Person" means an individual, partnership, association, or corporation, or any
55 governmental agency or authority.

56 ~~(h)~~ "State," when applied to a part of the United States, includes any of the 50 states and
57 the District of Columbia.

58 ~~(i)~~ "Transportation facilities," "transit facilities," or "facilities" ~~mean means~~ all those
59 matters and things utilized in rendering transportation service by means of rail, bus, water, or air
60 and any other mode of travel, including ~~without limitation~~ tracks, rights-of-way, bridges,
61 tunnels, subways, and rolling stock for rail, motor vehicle, marine, and air transportation;
62 stations, terminals, and ports; areas for parking; buildings; structures; and all equipment,
63 fixtures, and business activities reasonably required for the performance of transportation
64 service, but ~~shall~~ does not include any such facilities owned by any person, company,
65 association, or corporation, the major part of whose transportation service extends beyond a
66 transportation district created hereunder in this chapter.

67 **Drafting note: The term "standard metropolitan statistical area," used in the**
68 **definition of "metropolitan area," has been discontinued by the Office of Management and**
69 **Budget and the U.S. Census Bureau. See www.census.gov/population/metro/; the term has**
70 **not been used since 1983. The term "standard metropolitan statistical area" was defined**
71 **as it is referenced here, in the 1964 pamphlet. It is replaced with "metropolitan statistical**
72 **area" per current usage by the U.S. Census Bureau and the Office of Management and**
73 **Budget. Technical changes are made, including organizing definitions alphabetically.**

74 ~~§ 15.2-4503.33.2-1902. Conductors, etc., authorized~~ Authorization to issue summons.

75 Conductors of railroad trains, motormen, and station and depot agents of any
76 transportation district created pursuant to ~~Chapter 45 (§ 15.2-4500 et seq.) of this title, chapter~~
77 shall have the power to issue a summons for any violation of § 18.2-160.1 with respect to any
78 train operated by or under contract with such transportation district.

79 **Drafting note: Technical change.**

80 Article 2.

81 Creation of Districts.

82 **Drafting note: Existing Article 2 of Chapter 45 of Title 15.2 is relocated as Article 2**
83 **of Chapter 19 of proposed Title 33.2. The order of the two sections in existing Article 2 of**
84 **Chapter 45 of Title 15.2 is reversed so that the section delineating the procedure for**
85 **creation of districts is logically set out first, before the section creating the Northern**
86 **Virginia Transportation District and Commission.**

87 § ~~15.2-4504~~ 33.2-1903. Procedure for creation of districts; ~~single jurisdictional districts;~~
88 ~~application of chapter to port authorities and airport commissions.~~

89 ~~(1) A.~~ Any two or more counties or cities, ~~or combinations thereof,~~ may, in conformance
90 with the procedure set forth ~~herein in this section,~~ or as otherwise may be provided by law,
91 constitute a transportation district and shall have and exercise the powers set forth ~~herein in this~~
92 section and such additional powers as may be granted by the General Assembly. A
93 transportation district may be created by ordinance adopted by the governing body of each
94 participating county and city, which ordinances shall ~~(1) (i)~~ set forth the name of the proposed
95 transportation district ~~(which, which~~ shall include the words "transit district" or "transportation
96 district,"); ~~(2) shall (ii)~~ fix the boundaries thereof, ~~(3) shall (iii)~~ name the counties and cities
97 ~~which that~~ are in whole or in part to be embraced therein, and ~~(4) (iv)~~ contain a finding that the
98 orderly growth and development of the county or city and the comfort, convenience, and safety
99 of its citizens require an improved transportation system, composed of transit facilities, public
100 highways, and other modes of transport, and that joint action through a transportation district by
101 the counties and cities ~~which that~~ are to compose the proposed transportation district will
102 facilitate the planning and development of the needed transportation system. Such ordinances
103 shall be filed with the Secretary of the Commonwealth and, upon certification by that officer to
104 the Tax Commissioner and the governing ~~bodies~~ body of each of the participating counties and
105 cities that the ordinances required by this chapter have been filed and, upon the basis of the facts
106 set forth therein, satisfy such requirements, the territory defined in such ordinances, upon the

107 entry of such certification in the minutes of the proceedings of the governing ~~bodies~~ body of
108 each of the counties and cities, shall be and constitute a transportation district for all of the
109 purposes of this chapter, known and designated by the name stated in the ordinances.

110 ~~(2)~~ B. Notwithstanding the provisions of subsection ~~(1)~~ A, any county or city may,
111 subject to the applicable provisions of this chapter, constitute itself a transportation district in
112 the event that no governing body of any contiguous county or city wishes to combine for such
113 purpose, provided that the governing body of such single ~~jurisdictional~~ locality transportation
114 district shall comply with the provisions of subsection ~~(1)~~ A by adopting an ordinance ~~which~~
115 ~~shall (1) set that (i) sets~~ forth the name of the proposed transportation district, which shall
116 include the words "transit district" or "transportation district," ~~(2) shall fix"; (ii) fixes~~, in such
117 county or city, the boundaries thereof, ~~(3) shall name; (iii) names~~ the county or city ~~which that is~~
118 in whole or in part to be embraced therein; ~~(4) contain (iv) contains~~ a finding that the
119 orderly growth and development of the county or city and the comfort, convenience, and safety
120 of its citizens require an improved transportation district, composed of transit facilities, public
121 highways, and other modes of transport, and that joint action with contiguous counties and cities
122 has not been agreed to at this time, but that the formation of a transportation district will
123 facilitate the planning and development of the needed transportation system, and shall file such
124 ordinance in the manner and mode required by subsection ~~(1)~~ A. At such time as the governing
125 body of any contiguous county or city desires to combine with the original ~~jurisdiction~~ locality
126 for the formation of an enlarged transportation district, it shall enter into an agreement with the
127 commission of the original transportation district on such terms and conditions, consistent with
128 the provisions of this chapter, as may be agreed upon by such commission and such additional
129 county or city, and in conformance with the following procedures. The governing body of the
130 county or city having jurisdiction over the territory to be added to the original transportation
131 district shall adopt an ordinance specifying the area to be enlarged, containing the finding
132 specified in clause (iv) of subsection ~~(1)~~ A, and a statement that a contract or agreement
133 between the county or city and the commission, specifying the terms and conditions of

134 admittance to the transportation district has been executed. The ordinance, to which shall be
135 attached a certified copy of such contract, shall be filed with the Secretary of the
136 Commonwealth, and upon certification by that officer to the Tax Commissioner, the
137 commission, and to the governing ~~bodies~~ body of each of the component counties and cities that
138 the ordinance required by this section has been filed, and that the terms thereof conform to the
139 requirements of this section, such additional county, or part thereof, or city, upon the entry of
140 such certification in the minutes of the proceedings of the governing body of such county or
141 city, shall become a component government of the transportation district and the county, or
142 portion thereof specified, or city shall be embraced ~~in the territory of~~ by the transportation
143 district.

144 **Drafting note: Technical changes.**

145 § ~~15.2-4503.1~~ 33.2-1904. Northern Virginia Transportation District and Commission.

146 A. There is hereby created the Northern Virginia Transportation District ~~comprised of~~
147 (the District), comprising the Counties of Arlington, Fairfax, and Loudoun, ~~and~~; the Cities of
148 Alexandria, Falls Church, and Fairfax; and such other county or city contiguous to the District
149 that agrees to join the District.

150 B. There is hereby established the Northern Virginia Transportation Commission (the
151 Commission) as a transportation commission pursuant to this chapter. The Commission shall
152 consist of five nonlegislative citizen members from Fairfax County, three nonlegislative citizen
153 members from Arlington County; one nonlegislative citizen member from ~~the County of~~
154 Loudoun County, two nonlegislative citizen members from the City of Alexandria, one
155 nonlegislative member from the City of Falls Church, one nonlegislative citizen member from
156 the City of Fairfax, and the Chairman of the Commonwealth Transportation Board or his
157 designee to serve ex officio with voting privileges. If a county or city contiguous to the District
158 agrees to join the District, such ~~jurisdiction~~ locality shall appoint one nonlegislative citizen
159 member to the Commission. Members from the ~~respective~~ counties and cities shall be appointed
160 from their respective governing bodies. The Commission shall also include four members of the

161 House of Delegates appointed by the Speaker of the House of Delegates for terms coincident
162 with their terms of office and two members of the Senate appointed by the Senate Committee on
163 Rules for terms coincident with their terms of office. Members may be reappointed for
164 successive terms. All members shall be citizens of the Commonwealth. Except for the Chairman
165 of the Commonwealth Transportation Board or his designee, all members of the Commission
166 shall be residents of the localities ~~comprising~~ composing the ~~Transportation~~ District. Vacancies
167 occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies
168 shall be filled in the same manner as the original appointments.

169 **Drafting note: Technical changes are made. This section is unique because it is the**
170 **only regional district created and set out in the Transportation District Act.**

171 Article 3.

172 Incorporation of District; Creation, Organization, Etc., of Commission.

173 **Drafting note: Existing Article 3 of Chapter 45 of Title 15.2 is retained and**
174 **relocated as Article 3 of Chapter 19 of proposed Title 33.2.**

175 § ~~15.2-4505~~ 33.2-1905. District a body corporate; ~~name and style~~.

176 Each transportation district created pursuant to this chapter, or pursuant to an act of the
177 General Assembly, is hereby created as a body corporate and politic under the name of, and to
178 be known by, the name of the district with the word "commission" appended.

179 **Drafting note: Technical change.**

180 § ~~15.2-4506~~ 33.2-1906. Creation of commission to control corporation.

181 In and for each transportation district a commission is hereby created to manage and
182 control the functions, affairs, and property of the corporation and to exercise all of the rights,
183 powers, and authority and perform all of the duties conferred or imposed upon the corporation.

184 **Drafting note: Technical changes.**

185 § ~~15.2-4507~~ 33.2-1907. Members of transportation district commissions.

186 A. Any transportation district commission created pursuant to this chapter shall consist
187 of the number of members the component governments shall ~~from time to time~~ agree upon, or as

188 may otherwise be provided by law. The governing body of each participating county and city
189 shall appoint from among its members the number of commissioners to which the county or city
190 is entitled; however, for those commissions with powers as set forth in subsection A of § ~~15.2-~~
191 ~~4515~~ 33.2-1915, the governing body of each participating county or city is not limited to
192 appointing commissioners from among its members. In addition, the governing body may
193 appoint, from its number or otherwise, designated alternate members for those appointed to the
194 commission who shall be able to exercise all of the powers and duties of a commission member
195 when the regular member is absent from commission meetings. Each such appointee shall serve
196 at the pleasure of the appointing body; however, no appointee to a commission with powers as
197 set forth in subsection B of § ~~15.2-4515~~ 33.2-1915 may continue to serve when he is no longer a
198 member of the appointing body. Each governing body shall inform the commission of its
199 appointments to and removals from the commission by delivering to the commission a certified
200 copy of the resolution making the appointment or causing the removal.

201 The Chairman of the Commonwealth Transportation Board, or his designee, shall be a
202 member of each commission, ex officio with voting privileges. The Chairman of the
203 Commonwealth Transportation Board may appoint an alternate member who may exercise all
204 the powers and duties of the Chairman of the Commonwealth Transportation Board when
205 neither the Chairman of the Commonwealth Transportation Board nor his designee is present at
206 a commission meeting.

207 ~~In the case of a transportation district, commonly known as the~~ The Potomac and
208 Rappahannock Transportation Commission, ~~which was established on or after July 1, 1986, and~~
209 ~~which includes more than one jurisdiction located within the Washington, D.C., metropolitan~~
210 ~~area, such commission~~ shall also include two members of the House of Delegates and one
211 member of the Senate from legislative districts located wholly or in part within the boundaries
212 of the transportation district. The members of the House of Delegates shall be appointed by the
213 Speaker of the House for terms coincident with their terms of office, and the member of the
214 Senate shall be appointed by the Senate Committee on Rules for a term coincident with his term

215 of office. The members of the General Assembly shall be eligible for reappointment for
216 successive terms. Vacancies occurring other than by expiration of a term shall be filled for the
217 unexpired term. Vacancies shall be filled in the same manner as the original appointments.

218 ~~In the case of the~~ The Transportation District Commission of Hampton Roads, ~~such~~
219 ~~commission~~ shall consist of one nonlegislative citizen member appointed by the Governor from
220 each county and city embraced by the ~~Transportation District~~ transportation district. The
221 governing body of each such county or city may appoint either a member of its governing body
222 or its county or city manager to serve as an ex officio member with voting privileges. Every
223 such ex officio member shall be allowed to attend all meetings of the commission that other
224 members may be required to attend. Vacancies shall be filled in the same manner as the original
225 appointments.

226 ~~The Chairman of the Commonwealth Transportation Board, or his designee, shall be a~~
227 ~~member of each commission, ex officio with voting privileges. The chairman of the~~
228 ~~Commonwealth Transportation Board may appoint an alternate member who may exercise all~~
229 ~~the powers and duties of the chairman of the Commonwealth Transportation Board when neither~~
230 ~~the chairman of the Commonwealth Transportation Board nor his designee is present at a~~
231 ~~commission meeting.~~

232 B. Any appointed member of ~~a commission of a transportation district, commonly~~
233 ~~known as~~ the Northern Virginia Transportation Commission, ~~which was established prior to~~
234 ~~July 1, 1986, and which includes jurisdictions located within the Washington, D.C.,~~
235 ~~metropolitan statistical area,~~ and the Secretary ~~of Transportation~~ or his designee, is authorized to
236 serve as a member of the board of directors of the Washington Metropolitan Area Transit
237 Authority (Chapter 627 of the Acts of Assembly of 1958, as amended) and while so serving the
238 provisions of § 2.2-2800 shall not apply to such member. In appointing Virginia members of the
239 board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the
240 Northern Virginia Transportation Commission shall include the Secretary ~~of Transportation~~ or

241 | his designee as a principal member on the board of directors of ~~the~~ WMATA. Any designee
242 | serving as the principal member must reside in a locality served by WMATA.

243 | In selecting from its membership those members to serve on the board of directors of ~~the~~
244 | WMATA, the Northern Virginia Transportation Commission shall comply with the following
245 | requirements:

246 | 1. A board member shall not have been an employee of WMATA within one year of
247 | appointment to serve on the board of directors.

248 | 2. A board member shall have (i) experience in at least one of the ~~following:~~ fields of
249 | transit planning, transportation planning, or land use planning; transit or transportation
250 | management or other public sector management; engineering; finance; public safety; homeland
251 | security; human resources; or the law; or (ii) knowledge of the region's transportation issues
252 | derived from working on regional transportation issue resolution.

253 | 3. A board member shall be a regular patron of the services provided by WMATA.

254 | 4. ~~Members~~ Board members shall serve a term of four years with a maximum of two
255 | consecutive terms. ~~Such A board member's~~ term or terms must coincide with ~~their~~ his term on
256 | the body that appointed ~~them~~ him to the Northern Virginia Transportation Commission. Any
257 | vacancy created if a board member cannot fulfill his term because his term on the appointing
258 | body ~~had~~ has ended shall be filled for the unexpired term in the same manner as the member
259 | being replaced was appointed within 60 days of the vacancy. The initial appointments to a four-
260 | year term will be as follows: the Secretary, or his designee, for a term of four years; the second
261 | principal member for a term of three years; one alternate for a term of two years; and the
262 | remaining alternate for a term of one year. Thereafter, board members shall be appointed for
263 | terms of four years. Service on the WMATA board of directors prior to July 1, 2012, shall not
264 | be considered in determining length of service. Any person appointed to an initial ~~one or two~~
265 | year one-year or two-year term, or appointed to an unexpired term in which two years or less is
266 | remaining, shall be eligible to serve two consecutive four-year terms after serving the initial or
267 | unexpired term.

268 5. Members may be removed from the board of directors of ~~the~~ WMATA if they attend
269 fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to
270 employment at WMATA; or if they are found to be in violation of the State and Local
271 Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during
272 a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

273 6. Each member of the Northern Virginia Transportation Commission appointed to the
274 board of directors of ~~the~~ WMATA shall file semiannual reports with the Secretary's ~~of~~
275 ~~Transportation's~~ office beginning July 1, 2012. The reports shall include (i) the dates of
276 attendance at WMATA board meetings, (ii) any reasons for not attending a specific meeting,
277 and (iii) dates and attendance at other WMATA-related public events.

278 Any entity that provides compensation to a WMATA board member for his service on
279 the WMATA board shall be required to submit on July 1 of each year to the Secretary ~~of~~
280 ~~Transportation~~ the amount of that compensation. Such letter will remain on file with the
281 Secretary's office and be available for public review.

282 C. ~~In the case of two or more transportation commissions which each include at least one~~
283 ~~jurisdiction located within the Washington, D.C., metropolitan area and which have entered~~
284 When the Northern Virginia Transportation Commission and the Potomac and Rappahannock
285 Transportation Commission enter into an agreement to operate a commuter railway, the
286 agreement governing the creation of the railway shall provide that the Chairman of the
287 Commonwealth Transportation Board or his designee shall have one vote on the oversight board
288 for the railway. For each year in which the state contribution to the railway is greater than or
289 equal to the highest contribution from an individual ~~jurisdiction~~ locality, the total annual
290 ~~jurisdictional~~ subsidy as provided by the member localities used to determine vote weights shall
291 be recalculated to include the Commonwealth contributing an amount equal to the highest
292 contributing ~~jurisdiction~~ locality. The vote weights shall be recalculated to provide the
293 Chairman of the Commonwealth Transportation Board or his designee the same weight as the

294 highest contributing ~~jurisdiction~~ locality. The revised vote weights shall be used in determining
295 the passage of motions before the oversight board.

296 **Drafting note: References to specific transportation districts and commissions are**
297 **clarified to avoid ambiguous and confusing language and allow the reader better context.**
298 **The paragraph regarding the Chairman of the Commonwealth Transportation Board's**
299 **membership on all commissions is moved before language specific to each commission.**
300 **Technical changes are also made.**

301 § ~~15.2-4508~~ 33.2-1908. Officers of commission.

302 Within ~~thirty~~ 30 days after the appointment of the original commission members, the
303 commission shall meet on the call of any member and shall elect one of its members as
304 chairman and another as vice-chairman, each to serve for a term of one year or until his
305 successor is elected and qualified. The commission shall employ a secretary and treasurer, who
306 may or may not be a member of the commission, and, if not a commission member, fix his
307 compensation and duties. All officers shall be eligible for reelection. Each commission member,
308 before entering on the performance of his public duties, shall take and subscribe the oath or
309 affirmation specified in Article II, Section 7 of the Constitution of Virginia. Such oath may be
310 administered by any person authorized to administer oaths under § 49-4.

311 **Drafting note: Technical change.**

312 § ~~15.2-4509~~ 33.2-1909. Bonds of members.

313 Each commission member shall, before entering upon the discharge of his duties under
314 this chapter, give bond payable to the Commonwealth in a form approved by the Attorney
315 General, in such penalty as fixed ~~from time to time~~ by the Governor, with some surety or
316 guaranty company authorized to do business in ~~Virginia~~ the Commonwealth and approved by
317 the Governor, as security, conditioned upon the faithful discharge of his duties. The premium of
318 such bonds shall be paid by the commission and the bonds shall be filed with and preserved by
319 the Department of the Treasury's Division of Risk Management.

320 **Drafting note: Technical change.**

321 § ~~15.2-4510~~ 33.2-1910. Compensation and expenses of members.

322 The commission members shall receive no salary but shall be entitled to reimbursement
323 of all reasonable and necessary expenses and compensation allowed members of the
324 Commonwealth Transportation Board for the performance of their official duties as provided in
325 §§ 2.2-2813 and 2.2-2825.

326 **Drafting note: No change.**

327 § ~~15.2-4511~~ 33.2-1911. Meetings of commission.

328 Regular meetings of the commission shall be held at least once every month at such time
329 and place as the commission shall ~~from time to time~~ prescribe. Special meetings of the
330 commission shall be held upon mailed notice, or actual notice otherwise given, to each
331 commission member upon call of the chairman or any two commission members, at such time
332 and in such place within the district as such notice may specify, or at such other time and place
333 with or without notice as all commission members may expressly approve. All regular and
334 special meetings of the commission shall be open to the public, but the public shall not be
335 entitled to any notice other than provided ~~herein~~ in this section. Unless a meeting is called for
336 the purpose of a public hearing, members of the public shall have no right to be heard or
337 otherwise participate in the proceedings of the meeting, except to the extent the chairman may
338 in specific instances grant. All commission records shall be public records.

339 **Drafting note: Technical changes.**

340 § ~~15.2-4512~~ 33.2-1912. Quorum and action by commission.

341 A majority of the commission, which majority shall include at least one commissioner
342 from a majority of the component governments, shall constitute a quorum. Members of the
343 commission who are members of the General Assembly shall not be counted in determining a
344 quorum while the General Assembly is in session. The Chairman of the Commonwealth
345 Transportation Board or his designee shall be included for the purposes of constituting a
346 quorum. The presence of a quorum and a vote of the majority of the members necessary to
347 constitute a quorum of all the members appointed to the commission, including an affirmative

348 vote from a majority of the members, shall be necessary to take any action. The Chairman of the
349 Commonwealth Transportation Board or his designee shall have voting rights equal to
350 appointees of component governments on all matters brought before the commission.
351 Notwithstanding the provisions of § 2.2-3708, members of the General Assembly may
352 participate in the meetings of the commission through electronic communications while the
353 General Assembly is in session.

354 **Drafting note: No change.**

355 | § ~~15.2-4513~~ 33.2-1913. Funds of commission.

356 A. All moneys of a commission, whether derived from any contract of the commission
357 | or from any other source, shall be collected, received, held, secured₂, and disbursed in
358 accordance with any relevant contract of the commission. This section shall apply to such
359 moneys only if and to the extent they are consistent with such commission contracts.

360 B. Such moneys shall not be required to be paid into the state treasury or into the
361 treasury or to any officer of any county or city.

362 C. All such moneys shall be deposited by the commission in a separate bank account,
363 appropriately designated, in banks or trust companies designated by the commission.

364 **Drafting note: No change.**

365 | § ~~15.2-4514~~ 33.2-1914. Accounts and records.

366 Every commission shall keep and preserve complete and accurate accounts and records
367 of all moneys received and disbursed; business and operations; and all property and funds it
368 owns, manages, or controls. Each commission shall prepare and transmit to the Governor and to
369 the governing body of each county and city within the district, annually and at such other times
370 | as the Governor requires, complete and accurate reports of the state and content of such
371 accounts and records, together with other relevant information as the Governor may require.

372 **Drafting note: Technical change.**

373 Article 4.

374 Powers and Functions of Commission.

375 **Drafting note: Existing Article 4 of Chapter 45 of Title 15.2 is relocated as Article 4**
376 **of Chapter 19 of proposed Title 33.2.**

377 § ~~15.2-4515~~ 33.2-1915. Powers and functions generally.

378 A. ~~Any Notwithstanding any~~ other contrary provision of law ~~to the contrary~~
379 ~~notwithstanding~~, a commission shall, except as provided in subsection B ~~herein~~, have the
380 following powers and functions:

381 1. The commission shall prepare the transportation plan for the transportation district and
382 shall ~~from time to time~~ revise and amend the plan in accordance with the planning process and
383 procedures specified in Article 7 (§§ ~~15.2-4527 and 15.2-4528~~ 33.2-1928 et seq.) ~~of this chapter~~.

384 2. The commission may, when a transportation plan is adopted according to Article 7,
385 construct or acquire, by purchase or lease, the transportation facilities specified in such
386 transportation plan.

387 3. The commission may enter into agreements or leases with private companies for the
388 operation of its facilities; or may operate such facilities itself.

389 4. The commission may enter into contracts or agreements with the counties and cities
390 within the transportation district, ~~or~~ with counties and cities ~~which that~~ that adjoin the transportation
391 district and are within the same planning district, or with other commissions of adjoining
392 transportation districts; to provide, or cause to be provided, transit facilities and service to such
393 counties and cities; or to provide transit facilities and other modes of transportation between
394 adjoining transportation districts. Such contracts or agreements, together with any agreements or
395 leases for the operation of such facilities, may be utilized by the transportation district to finance
396 the construction and operation of transportation facilities, and such contracts, agreements, or
397 leases shall inure to the benefit of any creditor of the transportation district.

398 ~~Notwithstanding the above, however~~ However, except in any transportation district
399 containing any or all of the Counties of Chesterfield, Hanover, and Henrico, ~~and Chesterfield~~ or
400 the City of Richmond, being so delegated by the respective local governments, the commission
401 shall not have the power to regulate services provided by taxicabs, either within municipalities

402 or across municipal boundaries, which regulation is expressly reserved to the municipalities
403 within which taxicabs operate. In any transportation district containing any or all of the Counties
404 of Chesterfield, Hanover, and Henrico, ~~and Chesterfield~~ or the City of Richmond, the
405 commission may, upon proper authority granted by the respective component governments,
406 regulate services provided by taxicabs, either within localities or across county or city
407 boundaries.

408 B. ~~When the transportation district is located within a metropolitan area which includes~~
409 ~~all or a portion of a state or states contiguous to Virginia, the commission~~ The Northern Virginia
410 Transportation Commission:

411 1. Shall not prepare a transportation plan ~~nor or~~ construct or operate transit facilities, but
412 shall collaborate and cooperate in the manner specified in Article 7 (§§ ~~15.2-4527 and 15.2-~~
413 ~~4528~~ 33.2-1928 et seq.) with an agency in preparing, revising, and amending a transportation
414 plan for such metropolitan area.

415 2. Shall, according to Article 7 (§ 33.2-1928 et seq.) and in cooperation with the
416 governing bodies of the component governments embraced ~~within by~~ the transportation district,
417 formulate the tentative policy and decisions of the transportation district with respect to the
418 planning, design, location, construction, operation, and financing of transportation facilities.

419 3. May, when a transportation plan applicable to such a transportation district is adopted,
420 enter into contracts or agreements with an agency to contribute to the capital required for the
421 construction ~~and/or or~~ acquisition of transportation facilities and for meeting expenses and
422 obligations in the operations of such facilities.

423 4. May, when a transportation plan applicable to such transportation district is adopted,
424 enter into contracts or agreements with the counties and cities within the transportation district
425 to provide or cause to be provided transportation facilities and service to such counties and
426 cities.

427 5. Notwithstanding any other provision ~~herein in this section~~ to the contrary:

428 a. May acquire land or any interest therein by purchase, lease, gift, condemnation, or
429 otherwise and provide transportation facilities thereon for use in connection with any
430 transportation service;

431 b. May acquire land or any interest therein by purchase, lease, gift, condemnation, or
432 otherwise in advance of need for sale or contribution to an agency, for use by that agency in
433 connection with an adopted mass transit plan;

434 c. May, in accordance with the terms of any grant from or loan by the United States of
435 America or the Commonwealth, or any agency or instrumentality thereof, or when necessary to
436 preserve essential transportation service, acquire transit facilities or any carrier, ~~which that~~ is
437 subject to the jurisdiction of the Washington Metropolitan Area Transit Commission, by
438 acquisition of the capital stock or transit facilities and other assets of any such carrier and shall
439 provide for the performance of transportation by any such carrier or with such transit facilities
440 by contract or lease. However, the contract or lease shall be for a term of no more than one year,
441 renewable for additional terms of similar duration, and, in order to assure acceptable fare levels,
442 may provide for financial assistance by purchase of service, operating subsidies, or otherwise.
443 No such service ~~will shall~~ be rendered ~~which that~~ will adversely affect transit service rendered
444 by the transit facilities owned or controlled by the agency or any existing private transit or
445 transportation company. When notified by the agency that it is authorized to perform or cause to
446 be performed transportation services with motor vehicle facilities, the commission, upon request
447 by the agency, shall transfer such capital stock or transit facilities to the agency at a price to be
448 agreed upon; and

449 d. May prepare a plan for mass transportation services with cities, counties, agencies,
450 authorities, or commissions and may further contract with transportation companies, cities,
451 counties, commissions, authorities, agencies, and departments of the Commonwealth and
452 appropriate agencies of the federal government ~~and/or or~~ governments contiguous to ~~Virginia~~
453 the Commonwealth to provide necessary facilities, equipment, operations and maintenance,
454 access, and insurance pursuant to such plan.

455 C. The provisions of subdivisions B 1 through 4 and ~~provisions b and c of subdivision~~
456 ~~subdivisions B 5 of subsection B b and c~~ shall not apply (i) to any transportation district ~~which~~
457 ~~that~~ may be established on or after July 1, 1986, and ~~which that~~ includes any one or more
458 ~~jurisdictions which localities that~~ are located within a metropolitan area, but ~~which that~~ were
459 not, on January 1, 1986, members of any other transportation district or (ii) to any ~~jurisdiction~~
460 ~~which locality that~~, after July 1, 1989, joins a transportation district ~~which that~~ was established
461 on or before January 1, 1986. The provisions of this subsection shall ~~only~~ apply only to any
462 transportation district or ~~jurisdiction which locality that~~ is contiguous to the Northern Virginia
463 Transportation District. Any such district or ~~jurisdiction locality~~ shall be subject to the
464 provisions of subsection A ~~hereof~~, and further may exercise the powers granted by subdivision
465 B 5 a to acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise
466 and provide transportation facilities thereon for use in connection with any transportation
467 service.

468 D. Until such time as a commission enters into contracts or agreements with its
469 component governments under the provisions of subdivisions A 4 and B 4 and is receiving
470 revenues thereunder, adequate to meet the administrative expenses of the commission after
471 paying or providing for the payment of the obligations arising under said subdivisions, the
472 administrative expenses of the commission shall be borne by the component governments in the
473 manner ~~herein~~ set forth in this section. The commission annually shall submit to the governing
474 bodies of the component counties and cities a budget of its administrative requirements for the
475 next year.

476 ~~Except for the E. The administrative expenses of the~~ Northern Virginia Transportation
477 Commission, ~~the administrative expenses of the commission~~, to the extent funds for such
478 expenses are not provided from other sources, shall be allocated among the component
479 governments on the basis of population as reflected by the latest population statistics of the
480 ~~Bureau of the Census~~ U.S. Census Bureau; however, upon the request of any component
481 government, the commission shall make the allocation upon estimates of population prepared in

482 a manner approved by the commission and by the governing body of the component
483 government making such request. ~~For the~~ The administrative expenses of the Northern Virginia
484 Transportation Commission, ~~the administrative expenses of the Commission~~, to the extent funds
485 for such expenses are not provided from other sources, shall be allocated among the component
486 governments on the basis of the relative shares of state and federal transit aids allocated by the
487 Commission among its component governments. Such budget shall be limited solely to the
488 administrative expenses of the Commission and shall not include any funds for construction or
489 acquisition of transportation facilities ~~and/or or~~ the performing of transportation service. In
490 addition, the Northern Virginia Transportation Commission annually shall submit to the
491 governing bodies of the component counties and cities a budget of its other expenses and
492 obligations for the ensuing year. Such expenses and obligations shall be borne by the component
493 counties and cities in accordance with prior arrangements made therefor.

494 E.F. When a transportation plan has been adopted under ~~§ 15.2-4528~~ subdivision A 4 of
495 § 33.2-1928, the commission shall determine the equitable allocation among the component
496 governments of the costs incurred by the district in providing the transportation facilities
497 proposed in the transportation plan and any expenses and obligations from the operation thereof
498 to be borne by each county and city. In making such determinations, the commission shall
499 consider the cost of the facilities located within each county and city, the population of each
500 county and city, the benefits to be derived by each county and city from the proposed
501 transportation service, and all other factors ~~which~~ that the commission determines to be relevant.
502 Such determination, however, shall not create a commitment by the counties and cities, and such
503 commitments shall be created only under the contracts or agreements specified in subdivisions
504 A 4 and B 4.

505 **Drafting note: References to specific transportation districts and commissions are**
506 **clarified to avoid ambiguous and confusing language and allow the reader better context.**
507 **Technical changes are also made.**

508 § ~~15.2-4516, 33.2-1916.~~ ~~Regulation of fares, schedules, franchising agreements and~~
509 ~~routing of transit facilities~~ Commission control of transportation district.

510 The commission may exercise exclusive control, notwithstanding any provision of law
511 to the contrary, of matters of regulation of fares, schedules, franchising agreements, and routing
512 of transit facilities within the boundaries of its transportation district; however, the provisions of
513 § 5.1-7 ~~of the Code of Virginia~~ shall be applicable to airport commissions.

514 **Drafting note: Technical changes are made consistent with accurate citations and to**
515 **improve clarity with a proper catchline.**

516 § ~~15.2-4517, 33.2-1917.~~ Protection of employees of public transportation systems.

517 In any county or city, the commission referred to in § ~~15.2-4515, 33.2-1915,~~ in addition
518 to other prohibitions, shall not operate any such transit facility, or otherwise provide or cause to
519 be provided, any transportation services, unless fair and equitable arrangements have been made
520 for the protection of employees of existing public transportation systems in the transportation
521 district or in the metropolitan area in which the transportation district is located. Such
522 protections shall include (i) assurances of employment to employees of such transportation
523 systems to the fullest extent possible consistent with sound management, and priority of
524 employment, or, if terminated or laid off, reemployment; (ii) preservation of rights, privileges,
525 and benefits ~~(, including continuation of pension rights and benefits),~~ under existing collective
526 bargaining agreements or otherwise; (iii) continuation of collective bargaining rights; (iv)
527 protection of individual employees against a worsening of their positions with respect to their
528 employment, to the extent provided by ~~§ 13 (e) of the Urban Mass Transportation Act, as~~
529 ~~amended,~~ 49 U.S.C. § 5333 (b), also known as § 13(c) of the Federal Transit Act; and (v) paid
530 training and retraining programs. Such protections shall be specified by the commission in any
531 contract or lease for the acquisition or operation of any such transit facilities or services. The
532 employees of any transit facility operated by the commission shall have the right, in the case of
533 any labor dispute relating to the terms and conditions of their employment for the purpose of

534 resolving such dispute, to submit the dispute to final and binding arbitration by an impartial
535 umpire or board of arbitration acceptable to the parties.

536 **Drafting note: Technical changes are made and a citation to the Urban Mass**
537 **Transportation Act is updated to refer to the Federal Transit Act. The Federal Transit**
538 **Act, Title 49 U.S.C., Chapter 53, provides, in general, at Section 5333(b), commonly**
539 **referred to as "Section 13(c)," that, as a condition of certain federal financial assistance by**
540 **the Department of Transportation's Federal Transit Administration (FTA) in financing**
541 **mass transportation systems, fair and equitable arrangements must be made, as**
542 **determined by the Department of Labor (the Department), to protect the interests of**
543 **employees affected by such assistance. In conjunction with the Department's role in**
544 **making such determinations, the Department is providing information concerning its**
545 **procedures for processing applications for assistance under the Federal Transit Act, and**
546 **certification by the Department of acceptable protective arrangements.**

547 § ~~15.2-4517.1~~ 33.2-1918. Background checks of applicants and employees.

548 A. Any commission created pursuant to this chapter may require any individual who is
549 offered a position of employment with the commission, or with any contractor of the
550 commission when such individual is to be assigned to directly provide transit services to the
551 public under a contract with the commission, to submit to fingerprinting and to provide personal
552 descriptive information to be forwarded along with the individual's fingerprints through the
553 Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of
554 obtaining criminal history record information regarding such individual. The commission shall
555 bear all costs of obtaining criminal history record information regarding such individual,
556 including expenses incurred by the ~~Virginia~~ State Police in connection with such fingerprinting
557 or criminal records check. The commission may require such individual or contractor to
558 reimburse the commission for the cost of the fingerprinting or a criminal records check or both.

559 B. The Central Criminal Records Exchange, upon receipt of an individual's record or
560 notification that no record exists, shall make a report to the commission's chief administrative

561 officer, who must belong to a governmental entity. The information shall not be disseminated
562 except as provided for in this section.

563 **Drafting note: Technical change.**

564 ~~§ 15.2-4518~~ § 33.2-1919. Additional powers.

565 Without limiting or restricting the general powers created by this chapter, the
566 commission may:

567 1. Adopt and have a common seal and alter the seal at pleasure;

568 2. Sue and be sued;

569 3. Make regulations for the conduct of its business;

570 4. Make and enter into all contracts or agreements, as the commission may determine,
571 ~~which~~ that are necessary or incidental to the performance of its duties and to the execution of the
572 powers granted under this chapter;

573 5. Apply for and accept loans and grants of money or materials or property at any time
574 from the United States of America or the Commonwealth or any agency or instrumentality
575 thereof, for itself or as an agent on behalf of the component governments or any one or more of
576 them; ~~and in connection therewith;~~ purchase or lease as lessor or lessee; any transit facilities
577 required under the terms of any such grant made to enable the commission to exercise its
578 powers under ~~§ 15.2-4515 subdivision B 5~~ of § 33.2-1915;

579 6. In the name of the commission, and on its behalf, acquire, hold, ~~and~~ dispose of its
580 contract or other revenues;

581 7. Exercise any power usually possessed by private corporations, including the right to
582 expend, solely from funds provided under this chapter, such funds as may be considered by the
583 commission to be advisable or necessary in the performance of its duties and functions;

584 8. Employ engineers, attorneys, other professional experts and consultants, and general
585 and clerical employees deemed necessary; ~~and~~ prescribe their powers and duties and fix their
586 compensation;

587 9. Do anything authorized by this chapter under, through₂ or by its own officers, agents₂
588 and employees, or by contracts with any persons;

589 10. Execute instruments and do anything necessary, convenient₂ or desirable for the
590 purposes of the commission or to carry out the powers expressly given in this chapter;

591 11. Institute and prosecute any eminent domain proceedings to acquire any property
592 authorized to be acquired under this title in accordance with the provisions of Chapter 2 (§ 25.1-
593 200 et seq.) of Title 25.1₇; and subject to the approval of the State Corporation Commission
594 pursuant to § 25.1-102;

595 12. Invest in if required as a condition to obtaining insurance, participate in, or purchase
596 insurance provided by₇ foreign insurance companies that insure railroad operations, provided
597 this power is available only to those commissions that provide rail services;

598 13. Notwithstanding the provisions of § 8.01-195.3, contract to indemnify, and to obtain
599 liability insurance to cover such indemnity, any person who is liable, or who may be subjected
600 to liability, regardless of the character of the liability, as a result of the exercise by a commission
601 of any of the powers conferred by this chapter. No obligation of a commission to indemnify any
602 such person shall exceed the combined maximum limits of all liability policies, as defined in~~§~~
603 ~~15.2-4526 subsection C of § 33.2-1927~~, maintained by the commission; and

604 14. Notwithstanding any other contrary provision of law~~to the contrary~~, regulate traffic
605 signals and other~~vehiele traffic~~ control devices within~~its jurisdiction the district~~, through the
606 use of computers and other electronic communication and control devices, so as to effect the
607 orderly flow of traffic and to improve transportation services within~~its jurisdiction the district~~;
608 however, an agreement concerning the operation of traffic control devices acceptable to all
609 parties shall be entered into between the commission and the~~Virginia Department of~~
610 ~~Transportation~~; and all the counties and cities within the transportation district prior to the
611 commencement of such regulation.

612 **Drafting note: Technical changes.**

613 Article 5.

614 Financing.

615 **Drafting note: Existing Article 5 of Chapter 45 of Title 15.2 is relocated as Article 5**
616 **of Chapter 19 of proposed Title 33.2.**

617 § ~~15.2-4519~~ 33.2-1920. Authority to issue bonds and other obligations; ~~terms and~~
618 ~~conditions of bonds; enforcement; exemption from taxation; legal investments.~~

619 A. 1. A transportation district may issue bonds or other interest-bearing obligations, as
620 provided in this chapter, for any of its purposes and pay the principal and interest thereon from
621 any of its funds, including, ~~but not limited to,~~ any moneys paid to or otherwise received by the
622 district pursuant to any law ~~heretofore or hereafter~~ enacted or any contract or agreement or any
623 grant, loan, or contribution authorized by this chapter. For the purposes of this chapter, bonds
624 include bonds, notes, and other interest-bearing obligations, including notes issued in
625 anticipation of the sale and issuance of bonds.

626 2. Neither the members of a transportation district nor any person executing the bonds
627 shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other
628 obligations of a district (and such bonds and obligations shall so state on their face) shall not be
629 a debt of the Commonwealth or any political subdivision thereof, and only the district shall be
630 liable thereon. The bonds shall not constitute an indebtedness within the meaning of any debt
631 limitation or restriction except as provided under this section.

632 B. 1. Bonds of a transportation district shall be authorized by resolution, may be issued
633 in one or more series, shall be dated, shall mature at such times not exceeding ~~forty~~ 40 years
634 from their dates, shall bear interest at rates determined by the commission, and may be made
635 redeemable before maturity, at the option of the commission at such price or prices and under
636 such terms as the commission fixes prior to issuing the bonds. The commission shall determine
637 the form of the bonds, including any interest coupons to be attached and the manner of
638 execution of the bonds, and shall fix the denominations of the bonds and the places of payment
639 of principal and interest, which may be at any bank or trust company within or outside the

640 Commonwealth. If any officer whose signature or facsimile signature appears on any bonds or
641 coupons ceases to be such officer before delivery of such bond, such signature or facsimile shall
642 nevertheless be valid and sufficient for all purposes the same as if he had remained in office
643 until such delivery. Notwithstanding any other provisions of this article or any recitals in any
644 bonds issued under the provisions of this article, all such bonds shall be negotiable instruments
645 under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or
646 both, as the commission may determine, and provision may be made for the registration of any
647 coupon bonds as to principal alone and also as to both principal and interest, and for the
648 reconversion into coupon bonds of any bonds registered as to both principal and interest. The
649 transportation district may sell such bonds in such manner, either at public or private sale, and
650 for such price, as it may determine to be for the best interests of the district. A transportation
651 district is authorized to enter into indentures or agreements with respect to all such matters, and
652 such indentures or agreements may contain such other provisions as the commission may deem
653 reasonable and proper for the security of the bondholders. The resolution may provide that the
654 bonds shall be payable from and secured by all or any part of the revenues, moneys, or funds of
655 the district as specified therein. Such pledge shall be valid and binding from the time the pledge
656 is made, and such revenues, moneys, and funds so pledged and thereafter received by the district
657 shall immediately be subject to the lien of such pledge without any physical delivery thereof or
658 further act. The lien of any such pledge shall be valid and binding as against all parties having
659 claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such
660 parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is
661 created need be filed or recorded except in the records of the district. All expenses incurred in
662 carrying out the provisions of such indentures or agreements may be treated as a purpose of the
663 transportation district. A transportation district may issue refunding bonds for the purpose of
664 redeeming or retiring any bonds before or at maturity, including the payment of any premium,
665 accrued interest, and costs or expenses thereof.

666 2. Prior to the preparation of definitive bonds a transportation district may, under like
667 restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable
668 for definitive bonds when such bonds have been executed and are available for delivery. A
669 transportation district may also provide for the replacement of any bonds ~~which that~~ have been
670 mutilated, destroyed, or lost.

671 3. Bonds may be issued pursuant to this article without obtaining the consent of any
672 commission, board, bureau, or agency of the Commonwealth or of any governmental
673 subdivision, and without any referendum, other proceedings, or the happening of other
674 conditions except for those proceedings or conditions ~~which that~~ are specifically required by this
675 article.

676 C. Any holder of bonds, notes, certificates, or other evidence of borrowing issued under
677 this article or of any of the coupons appertaining thereto, and the trustee under any trust
678 indenture or agreement, except to the extent of the rights ~~herein~~ given in this article may be
679 restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action,
680 injunction, mandamus, or other proceedings, protect and enforce any and all rights under the
681 laws of the Commonwealth or granted by this article or under such trust indenture or agreement
682 or the resolution authorizing the issuance of such bonds, notes, or certificates, and may enforce
683 and compel the performance of all duties required by this article or by such trust indenture or
684 agreement or resolution to be performed by the transportation district or by any officer or agent
685 thereof.

686 D. The exercise of the powers granted by this article shall be in all respects for the
687 benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health,
688 welfare, convenience, and prosperity, and any facility or service ~~which that~~ a transportation
689 district is authorized to provide will constitute the performance of an essential governmental
690 function. The bonds of a district are declared to be issued for an essential public and
691 governmental purpose and their transfer and the income therefrom, including any profit made on

692 the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and
693 by any governmental subdivision thereof.

694 E. Bonds issued by a transportation district under this article are securities in which all
695 public officers and public bodies of the Commonwealth and its governmental subdivisions, ~~and~~
696 all insurance companies, trust companies, banks, banking associations, investment companies,
697 executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,
698 including capital in their control or belonging to them. Such bonds are securities ~~which that~~ may
699 properly and legally be deposited with and received by any state or local officer or any agency
700 or governmental subdivision of the Commonwealth for any purpose for which the deposit of
701 bonds or obligations is now or may hereafter be authorized by law.

702 **Drafting note: Technical changes are made, including the removal of "but not**
703 **limited to" based on § 1-218, which states, "'Includes' means includes, but not limited to."**

704 § ~~15.2-4520~~ 33.2-1921. Judicial determination of validity of bonds.

705 The provisions of ~~§§ Article 6 (§ 15.2-2650 to 15.2-2658 et seq.) of Chapter 26 of Title~~
706 15.2 apply to all suits, actions, and proceedings of whatever nature involving the validity of
707 bonds issued by a transportation district under the provisions of this article.

708 **Drafting note: Technical change.**

709 Article 6.

710 Powers and Duties of Localities; Liability of Commonwealth and Localities.

711 **Drafting note: Existing Article 6 of Chapter 45 of Title 15.2 is relocated as Article 6**
712 **of Chapter 19 of proposed Title 33.2.**

713 § ~~15.2-4521~~ 33.2-1922. Contracts and payment thereof.

714 A. Any county or city embraced ~~within~~ by a transportation district is authorized to enter
715 into contracts or agreements with the commission for such transportation district, or with an
716 agency, pursuant to which such transportation district, subject to the limitations ~~herein~~
717 in this section, or such agency undertakes to provide the transportation facilities specified in a
718 duly adopted transportation plan, ~~and/or or~~ to render transportation service. Any obligations

719 arising from such contracts are deemed to be for a public purpose and may be paid for, in the
720 discretion of each county or city, in whole or in part, by appropriations from general revenues or
721 from the proceeds of a bond issue or issues; however, any such contract must specify the annual
722 maximum obligation of any county or city for payments to meet the expenses and obligations of
723 the transportation district or such agency or provide a formula to determine the payment of any
724 such county or city for such expenses and obligations. Each county or city desiring to contract
725 with a transportation district or an agency is authorized to do so, provided it complies with the
726 appropriate provisions of law, and thereafter is authorized to do everything necessary or proper
727 to carry out and perform every such contract and to provide for the payment or discharge of any
728 obligation thereunder by the same means and in the same manner as any other of its obligations.

729 B. Except as otherwise provided by law:

730 1. No bonded debt shall be contracted by any county to finance the payment of any
731 obligations arising from its contracts hereunder unless the voters of such county shall approve
732 by a majority vote of the voters voting in an election the contracting of any such debt, the
733 borrowing of money, and issuance of bonds. Such debt shall be contracted and bonds issued and
734 such election shall be held in the manner provided in and subject to the provisions of ~~Chapter 26~~
735 the Public Finance Act (§ 15.2-2600 et seq.) ~~of this title~~ relating to counties; and

736 2. The contracting of debt, borrowing of money, and issuance of bonds by any city to
737 finance the payment of any obligations arising from its contracts hereunder shall be effected in
738 the manner provided in and subject to the provisions of ~~Chapter 26 of this title~~ the Public
739 Finance Act (§ 15.2-2600 et seq.) relating to cities.

740 **Drafting note: Technical changes.**

741 § ~~15.2-4522~~ 33.2-1923. Venue.

742 Every such contract shall be enforceable by the transportation district with ~~whom~~ which
743 the contract is made, as provided under the laws of ~~Virginia~~ the Commonwealth, and, if any
744 such contract is entered into with an agency or is relied upon in a contract between a
745 commission and any such agency, the agency also shall have the right to enforce the contract.

746 The venue for actions on any contract between a transportation district and a component
747 government shall be as specified in subdivision 10 of § 8.01-261. Venue in all other matters
748 arising hereunder shall be as provided by law.

749 **Drafting note: Technical changes.**

750 § ~~15.2-4523~~ 33.2-1924. Acquisition of median strips for transit facilities in interstate
751 highways.

752 When the district commission, the Commonwealth Transportation Board, and the
753 governing bodies of the component governments determine that the time schedule for
754 construction of any interstate highway, as defined in ~~Article 3 (§ 33.1-48 et seq.) of Chapter 1 of~~
755 ~~Title 33.1~~ § 33.2-100, within the district makes it necessary to acquire median strips for transit
756 facilities in such highway prior to the adoption of a transportation plan, each county and city
757 within the district is authorized to pay to the Commonwealth Transportation Board such sums as
758 may be agreed upon among the district commission and such counties and cities to provide the
759 Commonwealth Transportation Board with the necessary matching funds to acquire the median
760 strips. Any such acquisition shall be made by and in the name of the Commonwealth
761 Transportation Board.

762 **Drafting note: Technical changes.**

763 § ~~15.2-4524~~ 33.2-1925. Appropriations.

764 The governing bodies of counties and cities participating in a transportation district are
765 authorized to appropriate funds for the administrative and other expenses and obligations (i) of
766 the commission of the transportation district, as provided in ~~§ 15.2-4515 subsection D of § 33.2-~~
767 1915, (ii) of an agency, and (iii) for such other purposes as may be specified in a law creating a
768 transportation district.

769 **Drafting note: Technical change.**

770 § ~~15.2-4525~~ 33.2-1926. Powers granted are in addition to all other powers.

771 The powers conferred by this chapter on counties and cities are in addition and
772 supplemental to the powers conferred by any other law, and may be exercised by resolution or

773 ordinance of the governing bodies thereof, as required by law, without regard to the terms,
774 conditions, requirements, restrictions, or other provisions contained in any other law, general or
775 special, or in any charter.

776 **Drafting note: Technical change.**

777 § ~~15.2-4526~~ 33.2-1927. Liabilities of Commonwealth, counties, and cities.

778 A. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§
779 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, no pecuniary liability of any kind shall be
780 imposed on the Commonwealth or upon any county or city constituting any part of any
781 transportation district because of any act, agreement, contract, tort, malfeasance, misfeasance, or
782 nonfeasance, by or on the part of the commission of such transportation district, or any
783 commission member, or its agents, servants, and employees, except as otherwise provided in
784 this chapter with reference to contracts and agreements between the commission or interstate
785 agency and any county or city.

786 B. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§
787 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the obligations and any indebtedness of a
788 commission shall not be in any way a debt or liability of the Commonwealth, or of any county
789 or city in whole or in part embraced ~~within by~~ the transportation district, and shall not create or
790 constitute any indebtedness, liability, or obligation of the Commonwealth or of any such county
791 or city, ~~either~~ legal, moral, or otherwise, and nothing in this chapter contained shall be construed
792 to authorize a commission or district to incur any indebtedness on behalf of or in any way to
793 obligate the Commonwealth or any county or city in whole or in part embraced ~~within by~~ the
794 transportation district; however, any contracts or agreements between the commission and any
795 county or city provided for in ~~§ 15.2-4515 subdivisions~~ A 4 and B 4 of § 33.2-1915 shall inure
796 to the benefit of any creditor of the transportation district or, when applicable, to an agency as
797 therein provided.

798 C. For purposes of this section, ~~the term~~ "liability policy," as it is used in the Virginia
799 Tort Claims Act ~~shall~~, specifically ~~include~~ includes any program of self-insurance maintained

800 by a district and administered by the ~~Virginia Department of the Treasury's~~ Division of Risk
801 Management.

802 **Drafting note: Technical changes.**

803 Article 7.

804 Planning Process and Procedures.

805 **Drafting note: Existing Article 7 of Chapter 45 of Title 15.2 is relocated as Article 7**
806 **of Chapter 19 of proposed Title 33.2.**

807 § ~~15.2-4527~~ 33.2-1928. Planning process.

808 A. In performing the duties imposed under ~~§ 15.2-4515 subsections~~ A and B of § 33.2-
809 1915, the commission shall cooperate with the governing bodies of the counties and cities
810 embraced ~~within by~~ the transportation district and agencies thereof, with the Commonwealth
811 Transportation Board, and with an agency of which members of the district commission are also
812 members, to the end that the plans, decisions, and policies for transportation shall be consistent
813 with and shall foster the development and implementation of the general plans and policies of
814 the counties and cities for their orderly growth and development.

815 B. Each commission member shall serve as the liaison between the commission and the
816 body by which he was appointed, and those commission members who are also members of an
817 agency shall provide liaison between the district commission and such agency, to the end that
818 the district commission, its component governments, the Commonwealth Transportation Board,
819 and any such agency, shall be continuously, comprehensively, and mutually advised of plans,
820 policies, and actions requiring consideration in the planning for transportation and in the
821 development of planned transportation facilities.

822 C. To assure that planning, policy, and decision-making are consistent with the
823 development plans for the orderly growth of the counties and cities and coordinated with the
824 plans and programs of the Commonwealth Transportation Board and are based on
825 comprehensive data with respect to current and prospective local conditions, including, ~~without~~

826 ~~limitation,~~ land use, economic and population factors, the objectives for future urban
827 development, and future travel demands generated by such considerations, the commission may:

828 1. Create, subject to their appointment, technical committees from the personnel of the
829 agencies of the counties and cities and from the Commonwealth Transportation Board
830 concerned with planning, collection, and analysis of data relevant to decision-making in the
831 transportation planning process. Appointments to such technical committees, however, are to be
832 made by the governing bodies of the counties and cities and by the Commonwealth
833 Transportation Board, ~~as the case may be~~; or

834 2. If the transportation district is located within an area ~~which~~ that has an organized
835 planning process created in conformance with the provisions of 23 U.S.C. § 134, utilize the
836 technical committees created for such planning process.

837 D. The commission, on behalf of the counties and cities within the transportation district,
838 but only upon their direction, is authorized to enter into the written agreements specified in 23
839 U.S.C. § 134 to assure conformance with the requirements of that law for continuous,
840 comprehensive transportation planning.

841 **Drafting note: Technical changes.**

842 § ~~15.2-4528~~ 33.2-1929. Procedures.

843 A. To ~~assure~~ ensure that the planning process specified in § ~~15.2-4527~~ 33.2-1928 is
844 effectively and efficiently utilized, the commission shall conform to the following procedures
845 and may prescribe such additional procedures as it deems advisable:

846 1. Commission meetings shall be held at least monthly and more often in the discretion
847 of the commission, as the proper performance of its duties requires.

848 2. At such meetings the commission shall receive and consider reports from:

849 a. Its members who are also members of an agency, as to the status and progress of the
850 work of such agency, and if the commission deems that such reports are of concern to them,
851 shall fully inform its component governments, committees, and the Commonwealth

852 Transportation Board with respect thereto, as a means of developing the informed views
853 requisite for sound policy-making; and

854 b. Its members, technical and other committees, members of the governing bodies of the
855 component governments, and consultants, presenting and analyzing studies and data on matters
856 affecting the making of policies and decisions on a transportation plan and the implementation
857 thereof.

858 3. The objective of the procedures ~~herein~~ specified in this section is to develop
859 agreement, based on the best available information, among the district commission, the
860 governing bodies of the component governments, the Commonwealth Transportation Board,
861 and an interstate agency with respect to the various factors ~~which~~ that affect the making of
862 policies and decisions relating to a transportation plan and the implementation thereof. If any
863 material disagreements occur in the planning process with respect to objectives and goals, the
864 evaluation of basic data, or the selection of criteria and standards to be applied in the planning
865 process, the commission shall exert its best efforts to bring about agreement and understanding
866 on such matters. The commission, ~~in its discretion~~, may hold hearings in an effort to resolve any
867 such basic controversies.

868 4. Before a transportation plan is adopted, altered, revised, or amended by the
869 commission or by an agency on which it is represented, the commission shall transmit such
870 proposed plan, alteration, revision, or amendment to the governing bodies of the component
871 governments, to the Commonwealth Transportation Board, and to its technical committees and
872 shall release to the public information with respect thereto. A copy of the proposed
873 transportation plan, amendment, or revision, shall be kept at the commission office and shall be
874 available for public inspection. Upon ~~thirty~~ 30 days' notice, published once a week for two
875 successive weeks in one or more newspapers of general circulation within the transportation
876 district, a public hearing shall be held on the proposed plan, alteration, revision, or amendment.
877 The ~~thirty~~ 30 days' notice period shall begin to run on the first day the notice appears in any
878 such newspaper. The commission shall consider the evidence submitted and statements and

879 comments made at such hearings and, if objections in writing to the whole or any part of the
880 plan are made by the governing body of any component government, or by the Commonwealth
881 Transportation Board, or if the commission considers any written objection made by any other
882 person, group, or organization to be sufficiently significant, the commission shall reconsider the
883 plan, alteration, revision, or amendment. If, upon reconsideration, the commission agrees with
884 the objection, then the commission shall make appropriate changes to the proposed plan,
885 alteration, revision, or amendment, and may adopt them without further hearing. If, upon
886 reconsideration, the commission disagrees with the objection, the commission may adopt the
887 plan, alteration, revision, or amendment. No facilities shall be located in and no service
888 rendered, however, within any county or city ~~which that~~ does not execute an appropriate
889 agreement with the commission or with an interstate agency as provided in § ~~15.2-4521~~ 33.2-
890 1922; but in such case, the commission shall determine whether the absence of such an
891 agreement so materially and adversely affects the feasibility of the transportation plan as to
892 require its modification or abandonment.

893 **Drafting note: Technical changes.**

894 Article 8.

895 Enlargement of Transportation Districts.

896 **Drafting note: Existing Article 8 of Chapter 45 of Title 15.2 is relocated as Article 8**
897 **of Chapter 19 of proposed Title 33.2.**

898 § ~~15.2-4529~~ 33.2-1930. Procedure for enlargement.

899 A transportation district may be enlarged to include any additional county, or part
900 thereof, or city or part thereof, contiguous thereto, upon such terms and conditions, consistent
901 with the provisions of this chapter, as may be agreed upon by the commission and such
902 additional county or city and in conformance with the following procedures. The governing
903 body of the county or city shall adopt an ordinance specifying the area to be enlarged,
904 containing the finding specified in § ~~15.2-4504 of this chapter~~ 33.2-1903 and a statement that a
905 contract or agreement between the county or city and the commission, specifying the terms and

906 | conditions of admittance to the transportation district; has been executed. The ordinance, to
907 | which shall be attached a certified copy of the contract, shall be filed with the Secretary of the
908 | Commonwealth. Upon certification by the Secretary of the Commonwealth to the Tax
909 | Commissioner, the commissioner, and ~~to~~ the governing bodies of each of the component
910 | counties and cities that the ordinance required by this section has been filed and that its terms
911 | conform to the requirements of this section, the additional county; or part thereof, or city or part
912 | thereof, upon the entry of such certification in the minutes of the proceedings of the governing
913 | body of such county or city, shall become a component government of the transportation district
914 | and part of the transportation district.

915 | **Drafting note: Technical change.**

916 | Article 9.

917 | Withdrawal from Transportation District.

918 | **Drafting note: Existing Article 9 of Chapter 45 of Title 15.2 is relocated as Article 9**
919 | **of Chapter 19 of proposed Title 33.2.**

920 | § ~~15.2-4530~~ 33.2-1931. Resolution or ordinance.

921 | A county or city may withdraw from the transportation district by resolution or
922 | ordinance, as may be appropriate, adopted by a majority vote of its governing body. The
923 | withdrawal of any county or city shall not be effective until the resolution or ordinance of
924 | withdrawal is filed with the transportation district commission and with the Secretary of the
925 | Commonwealth.

926 | **Drafting note: No change.**

927 | § ~~15.2-4531~~ 33.2-1932. Financial obligations.

928 | The withdrawal from the transportation district of any county or city shall not relieve the
929 | county or city from any obligation or commitment made or incurred while a district member.

930 | **Drafting note: No change.**

931 | Article 10.

932 | Exemption from Taxation; Tort Liability.

933 **Drafting note: Existing Article 10 of Chapter 45 of Title 15.2 is relocated as Article**
934 **10 of Chapter 19 of proposed Title 33.2.**

935 § ~~15.2-4532~~ 33.2-1933. Public purpose; exemption from taxation.

936 It is hereby found, determined, and declared that the creation of any transportation
937 district hereunder and the carrying out of the corporate purposes of any such transportation
938 district is in all respects for the benefit of the people of ~~this~~ the Commonwealth and is a public
939 purpose and that the transportation district and the commission will be performing an essential
940 governmental function in the exercise of the powers conferred by this chapter. Accordingly, the
941 transportation district shall not be required to pay taxes or assessments upon any of the property
942 acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities
943 in the operation and maintenance of any transportation facilities or upon any revenues
944 therefrom, and the property and the income derived therefrom shall be exempt from all state,
945 municipal, and local taxation. This exemption shall include, ~~without limitation,~~ all motor vehicle
946 license fees, motor vehicle sales and use taxes, retail sales and use taxes, and motor fuel taxes.
947 The governing body of any political subdivision within a transportation district may refund in
948 whole or in part any payments for taxes or license fees or abate in whole or in part any
949 assessments for taxes or license fees on any property exempt from taxation or license fees under
950 this section that were assessed and levied prior to the acquisition of any transportation facilities
951 by a transportation district.

952 **Drafting note: Technical changes are made, including the removal of "but not**
953 **limited to" based on § 1-218, which states, "'Includes' means includes, but not limited to."**

954 § ~~15.2-4533~~ 33.2-1934. Liability for torts.

955 Every district shall be liable for its torts and those of its officers, employees, and agents
956 committed in the conduct of any proprietary function but shall not be liable for any torts
957 occurring in the performance of a governmental function. However, this section shall not apply
958 to a transportation district subject to the provisions of the Virginia Tort Claims Act (§ 8.01-
959 195.1 et seq.).

TITLE 33.2 ORGANIZATION OUTLINE

Proposed Title 33.2. Highways and Other Surface Transportation Systems.

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

Chapter 1		Definitions and General Provisions
Chapter 2		Transportation Entities
	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.**

Chapter 3		Highway Systems
	Article 1	Interstate System
	Article 2	Primary State Highway System
	Article 3	Secondary State Highway System
	Article 4	Urban Highway System
	Article 5	Allocation of Highway Funds
Chapter 4		Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams
Chapter 5		HOV Lanes and HOT Lanes
Chapter 6		Toll Facilities and Ferries
Chapter 7		Local Authority over Highways
	Article 1	General Provisions
	Article 2	Establishment, Alteration, and Discontinuance of Highways
	Article 3	Assumptions of District Highway Indebtedness
Chapter 8		Offenses Concerning Highways
Chapter 9		Abandonment and Discontinuance of Highways and Roads
	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

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

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

Chapter 15		Transportation Funding
	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
Chapter 16		Rail Funds
Chapter 17		Transportation Development and Revenue Bond Act
Chapter 18		Public-Private Transportation Act of 1995

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

Chapter 19		Transportation District Act of 1964
	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

Chapter 20		Local Transportation Districts
Chapter 21		Transportation Districts within Certain Counties
Chapter 22		Chesapeake Bay Bridge and Tunnel District and Commission
Chapter 23		U.S. Route 58 Corridor Development Fund and Program
Chapter 24		Northern Virginia Transportation District Fund and Program
Chapter 25		Northern Virginia Transportation Authority
Chapter 26		Hampton Roads Transportation Fund
Chapter 27		Transportation District within the City of Charlottesville and the County of Albemarle
Chapter 28		Charlottesville-Albemarle Regional Transit Authority
Chapter 29		Richmond Metropolitan Authority
Chapter 30		Washington Metropolitan Area Transit Regulation Compact of 1958
Chapter 31		Washington Metropolitan Area Transit Authority of 1966
Chapter 32		Metropolitan Planning Organizations

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 UCC representative advised that this cross reference should have been removed when Article 9A replaced Article 9 of the UCC in 2000. HB 1204 (2000) had a clause that all references to Article 9 would be assumed to be the corresponding reference to Article 9A but subsection (5) of 8.9-302 was not carried forward into Article 9A.